Michigan Register

Issue No. 7– 2008 (Published May 1, 2008)

GRAPHIC IMAGES IN THE

MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws

Issue No. 7— 2008
(This issue, published May 1, 2008, contains
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Peter Plummer, Executive Director, State Office of Administrative Hearings and Rules; **Deidre O'Berry**, Administrative Rules Analyst for Operations and Publications.

Jennifer M. Granholm, Governor

John D. Cherry Jr., Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The State Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.

(f) Administrative rules filed with the secretary of state.

(g) Emergency rules filed with the secretary of state.

(h) Notice of proposed and adopted agency guidelines.

(i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.

(j) Attorney general opinions.

(k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.

(2) The State Office of Administrative Hearings and Rules shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the State Office of Administrative Hearings and Rules may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the State Office of Administrative Hearings and Rules. The fund shall be expended only as provided in this section.

(2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.

(3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.

(4) The department of management and budget shall sell copies of Michigan register at a price determined by the State Office of Administrative Hearings and Rules not to exceed cost of preparation, printing, and distribution.

(5) Notwithstanding section 204, beginning January 1, 2001, the State Office of Administrative Hearings and Rules shall make the text of the Michigan register available to the public on the internet.

(6) The information described in subsection (5) that is maintained by the State Office of Administrative Hearings and Rules shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the State Office of Administrative Hearings and Rules shall be made available in the shortest feasible time after it is made available to the State Office of Administrative Hearings and Rules.

(7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).

(8) The State Office of Administrative Hearings and Rules shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).

(9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the State Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The State Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of $400.00 per year. Submit subscription requests to: State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the State Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the State Office of Administrative Hearings and Rules: www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the State Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Peter Plummer, Executive Director
State Office of Administrative Hearings and Rules

2008 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2008	February 1, 2008
2	February 1, 2008	February 15, 2008
3	February 15, 2008	March 1, 2008
4	March 1, 2008	March 15, 2008
5	March 15, 2008	April 1, 2008
6	April 1, 2008	April 15, 2008
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19	October 15, 2008	November 1, 2008
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23	December 15, 2008	January 1, 2009
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CUMULATIVE INDEX

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

MCL 24.242(3) states in part:

"… the agency shall submit a copy of the notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the State Office of Administrative Hearings and Rules."

MCL 24.208 states in part:

"Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules."

PROPOSED ADMINISTRATIVE RULES

SOAHR 2007-059

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

DIRECTOR'S OFFICE

SKI AREA SAFETY BOARD

GENERAL RULES

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of labor and economic growth by section 6 of 1962 PA 199, and Executive Reorganization Order Nos. 1996-2, and 2003-1, MCL 408.326, MCL 445.2001 and MCL 445.2011)

Draft April 3, 2008

R 408.62 is added to the Michigan Administrative Code as follows:

R 408.62 Motorized vehicle use policy.

Rule 2. (1) Ski area operators shall comply with all of the following with regard to the use of motorized vehicles on ski slopes, runs or trails open to the public:

(a) Ski areas shall have a written policy that addresses all of the following:

(i) The training required for anyone to operate an authorized vehicle on open ski slopes, runs, or trails.

(ii) The recommended routes for motorized vehicles to follow when used on open ski slopes, runs, or trails.

(iii) The circumstances under which a motorized vehicle may be used on open ski slopes, runs, or trails.

(iv) The circumstances under which the alarm required in subrule (2)(d) of this rule must be utilized.

(b) Report to the department within 24 hours any injury or fatality caused by a motorized vehicle on a ski slope, run, or trail.

(c) Prohibit the use of privately owned motorized vehicles in areas open to skiers.

(2) Motorized vehicles operated on ski slopes, runs, or trails that are open to the public shall be equipped with all of the following:

(a) Lights and brakes as required pursuant to MCL 324.82122.

(b) For vehicles measuring less than 6 feet in height above the snow, a florescent flag measuring at least 40 square inches mounted at least 6 feet above the bottom of the tracks and visible from 360 degrees.

(c) A flashing or rotating red light conspicuously located on the vehicle, which must be operated while the vehicle is moving in the vicinity of a ski slope, run, or trail.

(d) An audible alarm capable of producing a minimum warning sound of 85 decibels to alert skiers or bystanders.

(3) Operators of motorized vehicles on ski slopes, runs, or trails shall comply with the following:

(a) Operate a vehicle at a rate of speed not greater than is reasonable for the conditions and as required pursuant to MCL 324.82126a and MCL 324.82126b.

(b) Be at least 18 years of age, possess a valid driver's license, and have completed mandatory training that includes the safe use of motorized vehicles on ski slopes, runs, or trails when skiers are present.

(c) Whenever possible, a vehicle operated on ski slopes, runs, or trails shall give skiers and pedestrians the right-of-way.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LABOR AND ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES

BOARD OF SKI AREA SAFETY
Rule Set 2007-059 LG

NOTICE OF PUBLIC HEARING
May 9, 2008
1:00 p.m.
2501 Woodlake Circle, Okemos, Michigan
Conference Room 1

The Department of Labor and Economic Growth will hold a public hearing on May 9, 2008, 1:00 p.m. at the Bureau of Commercial Services, 2501 Woodlake Circle, Okemos Michigan in Conference Room 1. The hearing will be held to receive public comments on proposed changes to the Administrative Rules for the Board of Ski Area Safety.

The proposed rule set #2007-059 LG clarifies provisions of MCL 408.326a of the Ski Area Safety Act, 1962 PA 199, related to use of motorized vehicles in ski areas. The rules provide for enhanced safety measures at ski areas.

These rules are promulgated by authority conferred on the Department of Labor and Economic Growth by 1962 PA 199, MCL 408.326 and MCL 408.327.

The rule set #2007-059 LG is published on the Michigan Government web site at http://www.michigan.gov/orr and will be published in the May 1, 2008 issue of the *Michigan Register*. Comments may be submitted to the following address by 5:00 P.M. on Monday, May 12, 2008. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Labor and Economic Growth
Amy Shell, Bureau of Commercial Services
P. O. Box 30018
Lansing MI 48909-7518
Phone: (517) 241-9219
FAX: (517) 373-3085
E-mail: shella1@michigan.gov

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternative formats) should contact the Bureau at (517)241-9265 14 days prior to the hearing date. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

CERTIFICATE OF NEED
REVIEW STANDARDS

MCL 24.208 states in part:

Sec. 8. The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(k) All of the items in section 7(l) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.2217.

MCL 24.207 states in part:

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

* * *

(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:
(i) The designation, deletion, or revision of covered medical equipment and covered clinical services.
(ii) Certificate of need review standards
(iii) Data reporting requirements and criteria for determining health facility viability.
(iv) Standards used by the department of community health in designating a regional certificate of need review agency.
(v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.

CERTIFICATE OF NEED REVIEW STANDARDS

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR URINARY EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY (UESWL) SERVICES

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for approval and delivery of services for all projects approved and Certificates of Need issued under Part 222 of the Code that involve a urinary extracorporeal shock wave lithotripsy service/unit.

(2) Urinary extracorporeal shock wave lithotripsy is a covered clinical service for purposes of Part 222 of the Code.

(3) The Department shall use sections 3, 4, 5, 6, 7, 8, 12, 13, 14, and 15, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use sections 10 and 11, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(5) The Department shall use Section 9, as applicable, in applying Section 22215(1)(b) of the Code, being Section 333.22215(1)(b) of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of an existing UESWL service or existing UESWL unit(s)" means obtaining possession or control of an existing fixed or mobile UESWL service or existing UESWL unit(s) by purchase, lease, donation, or other comparable arrangement.

(b) "Central service coordinator" OR "CSC" means the organizational unit that has operational responsibility for a mobile UESWL service and its unit(s) and that is a legal entity authorized to do business in the state of Michigan.

(c) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(d) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(e) "Complicated stone disease treatment capability" means the expertise necessary to manage all patients during the treatment of kidney stone disease. This includes, but is not limited to:

(i) A urology service that provides skilled and experienced ureteroscopic stone removal procedures and

(ii) Experienced interventional radiologic support.

(f) "Department" means the Michigan Department of Community Health (MDCH).

(g) "Existing mobile UESWL unit" means a CON-approved and operational UESWL unit and transporting equipment operated by a central service coordinator that provides UESWL services to two or more host sites.

(h) "Existing UESWL service" means the utilization of a CON-approved and operational UESWL unit(s) at one site in the case of a fixed UESWL service or at each host site in the case of a mobile UESWL service.

(i) "Existing UESWL unit" means the utilization of a CON-approved and operational UESWL unit.

(j) "Expand an existing UESWL service" means the addition of one UESWL unit at an existing UESWL service.

(k) "Hospital" means a health facility licensed under Part 215 of the Code.

(l) "Host site" means the site at which a mobile UESWL unit is authorized to provide UESWL services.

(m) "Initiate a UESWL service" means to begin operation of a UESWL unit, whether fixed or mobile, at a site that does not offer (or has not offered within the last consecutive 12-month period) approved UESWL services. The term does not include the acquisition or relocation of an existing UESWL service or the renewal of a lease.

(n) "Licensed site" means either of the following:

(i) In the case of a single site health facility, the location of the facility authorized by license and listed on that licensee's Certificate of Licensure.

(ii) In the case of a health facility with multiple sites, the location of each separate and distinct health facility as authorized by license and listed on that licensee's Certificate of Licensure.

(o) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and1396r-8 to 1396v.

(p) "Metropolitan statistical area county" means a county located in a metropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix B.

(q) "Michigan Inpatient Database" or "MIDB" means the database that is compiled by the Michigan Health and Hospital Association or successor organization. The database consists of inpatient discharge records from all Michigan hospitals and Michigan residents discharged from hospitals in border states for a specific calendar year.

(r) "Micropolitan statistical area county" means a county located in a micropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix B.

(s) "Mobile UESWL unit" means a UESWL unit and transporting equipment operated by a central service coordinator that provides UESWL services to two or more host sites.

(t) "Planning area" means the state of Michigan.

(u) "Region" means the geographic areas set forth in Section 12.

(v) "Relocate a fixed UESWL unit" means a change in the location of a fixed UESWL unit(s) from the existing site to a different site within the relocation zone.

(w) "Relocate an existing UESWL service" means a change in the geographic location of an existing fixed UESWL service and its unit(s) from an existing site to a different site.

(x) “Relocation zone” means the geographic area that is within a 25-mile radius, within the state of Michigan, of the existing site of the UESWL service to be relocated.

(y) “Renewal of a lease” means extending the effective period of a lease for an existing UESWL unit that does not involve either the replacement/upgrade of a UESWL unit, as defined in Section 2(1)(z), or a change in the parties to the lease.

(z) "Replace an existing UESWL unit" means an equipment change of an existing UESWL unit, other than an upgrade, proposed by an applicant that results in that applicant operating the same number of UESWL units before and after the project completion. The term does not include an upgrade of an existing UESWL unit, changing a mobile UESWL unit to a fixed UESWL unit, or changing a fixed UESWL unit to a mobile UESWL unit.

(aa) “Retreatment” means a UESWL procedure performed on the same side of the same patient within 6 months of a previous UESWL procedure performed at the same UESWL service. In the case of a mobile service, the term includes a retreatment performed at a different host site if the initial treatment was performed by the same service.

(bb) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix C.

(cc) "Upgrade an existing UESWL unit" means any equipment change, other than a replacement, that involves a capital expenditure of $125,000 or less in any consecutive 24-month period.

(dd) "Ureteroscopic stone removal procedure" means a stone removal procedure conducted in the ureter by means of an endoscope that may or may not include laser technology.

(ee) "Urinary extracorporeal shock wave lithotripsy" or "UESWL" means a procedure for the removal of kidney stones that involves focusing shock waves on kidney stones so that the stones are pulverized into sand-like particles, which then may be passed through the urinary tract.

(ff) “UESWL service” means either the CON-approved utilization of a UESWL unit(s) at one site in the case of a fixed UESWL service or at each host site in the case of a mobile UESWL service.

(gg) "UESWL unit" means the medical equipment that produces the shock waves for the UESWL procedure.

(2) The definitions in Part 222 shall apply to these standards.

Section 3. Requirements for approval for all applicants proposing to initiate a urinary extracorporeal shock wave lithotripsy service

Sec. 3. (1) An applicant proposing to initiate a UESWL service shall demonstrate each of the following:

(a) The capability to provide complicated stone disease treatment on-site.

(b) At least 1,000 procedures are projected pursuant to the methodology set forth in Section 13(1).

(c) The proposed UESWL service shall be provided at a site that provides, or will provide, each of the following:

(i) On-call availability of an anesthesiologist and a surgeon.

(ii) On-site Advanced Cardiac Life Support (ACLS)-certified personnel and nursing personnel.

(iii) On-site IV supplies and materials for infusions and medications, blood and blood products, and pharmaceuticals, including vasopressor medications, antibiotics, and fluids and solutions.

(iv) On-site general anesthesia, EKG, cardiac monitoring, blood pressure, pulse oximeter, ventilator, general radiography and fluoroscopy, cystoscopy, and laboratory services.

(v) On-site crash cart.

(vi) On-site cardiac intensive care unit or a written transfer agreement with a hospital that has a cardiac intensive care unit.

(vii) On-site 23-hour holding unit.

Section 4. Requirements for approval for applicants proposing to replace an existing UESWL unit(s)

Sec. 4. (1) An applicant proposing to replace an existing UESWL unit(s) shall demonstrate the following:

(a) Each existing UESWL unit of the service proposing to replace a UESWL unit has averaged at least 1,000 UESWL procedures per unit during the most recent continuous 12-month period for which the Department has verifiable data.

(b) Each UESWL unit of the service proposing to replace a UESWL unit is projected to perform at least 1,000 UESWL procedures per unit per year pursuant to the methodology set forth in Section 13.

(2) An applicant proposing to replace a UESWL unit shall demonstrate one or more of the following:

(a) The existing equipment clearly poses a threat to the safety of the public.

(b) The proposed replacement UESWL unit offers technological improvements that enhance quality of care, increase efficiency, or reduce operating costs and patient charges.

(c) The existing equipment is fully depreciated according to generally accepted accounting principles.

(3) An applicant that demonstrates that it meets the requirements in this subsection shall not be required to demonstrate compliance with Section 4(1):

(a) The proposed project involves replacing 1 existing fixed UESWL unit with 1 mobile UESWL unit.

(b) The proposed mobile unit will serve at least 1 host site that is located in a region other than the region in which the fixed UESWL unit proposed to be replaced is located currently.

(c) At least 100 UESWL procedures are projected in each region in which the proposed mobile UESWL unit is proposed to operate when the results of the methodology in Section 13 are combined for the following, as applicable:

(i) All licensed hospital sites committing MIDB data pursuant to Section 14, as applicable, that are located in the region identified in subsection (c).

(ii) All sites that receive UESWL services from an existing UESWL service and propose to receive UESWL services from the proposed mobile unit and that are located in the region identified in subsection (c).

(d) A separate application from each host site is filed at the same time the application to replace a fixed unit is submitted to the Department.

(e) The proposed mobile UESWL unit is projected to perform at least 1,000 procedures annually pursuant to the methodology set forth in Section 13.

(4) Equipment that is replaced shall be removed from service and disposed of or rendered considerably inoperable on or before the date that the replacement equipment becomes operational.

Section 5. Additional requirements for approval for mobile UESWL services

Sec. 5. (1) An applicant proposing to begin operation of a mobile UESWL service in Michigan shall demonstrate that it meets all of the following:

(a) The proposed mobile UESWL service meets the requirements of Section 3 or 4, as applicable.

(b) At least 100 UESWL procedures are projected in each region in which the proposed mobile UESWL unit is proposing to operate when the results of the methodology in Section 13 are combined for the following, as applicable:

(i) All licensed hospital sites committing MIDB data pursuant to Section 14, as applicable, that are located in the region identified in subsection (b).

(ii) All sites that receive UESWL services from an existing UESWL unit and propose to receive UESWL services from the proposed mobile unit are located in the region(s) identified in subsection (b).

(c) The normal route schedule, the procedures for handling emergency situations, and copies of all potential contracts related to the mobile UESWL service and its unit(s) shall be included in the CON application submitted by the central service coordinator.

(2) The requirements of subsection (1)(a) and (1)(b) shall not apply to an applicant that proposes to add a Michigan site as a host site if the applicant demonstrates that the mobile UESWL service and its unit(s) operates predominantly outside of Michigan and all of the following requirements are met:

(a) The proposed host site is located in a rural or micropolitan statistical area county.

(b) All existing and approved Michigan UESWL service and its unit(s) locations (whether fixed or mobile) are in excess of 50 miles from the proposed host site and within a region currently served by a UESWL mobile service operating predominantly outside of Michigan.

(c) A separate CON application has been submitted by the CSC and each proposed host site.

(3) A central service coordinator proposing to add, or an applicant proposing to become, a host site on either an existing or a proposed mobile UESWL service shall demonstrate that it meets the requirements of Section 3(1)(C).

(4) A central service coordinator proposing to add, or an applicant proposing to become, a host site on an existing mobile UESWL service in a region not currently served by that service shall demonstrate that at least 100 UESWL procedures are projected in each region in which the existing mobile UESWL service is proposing to add a host site when the results of the methodology in Section 13 are combined for the following, as applicable:

(a) All licensed hospital sites committing MIDB data pursuant to Section 14, as applicable, are located in that region(s).

(b) All sites that receive UESWL services from an existing UESWL service and its unit(s) and propose to receive UESWL services from the proposed mobile service and its unit(s) are located in that region(s).

Section 6. Requirements for approval for applicants proposing to acquire an existing UESWL service and its unit(s) or an existing UESWL unit(s)

Sec. 6. (1) An applicant proposing to acquire an existing fixed or mobile UESWL service and its unit(s) shall demonstrate that a proposed project meets all of the following:

(a) The requirements of Sections 4 and 7, as applicable, have been met.

(b) For an application for the proposed first acquisition of an existing fixed or mobile UESWL service, for which a final decision has not been issued after MAY 2, 1998, an existing UESWL service to be acquired shall not be required to be in compliance with the volume requirement applicable to the seller/lessor on the date the acquisition occurs. The UESWL service and its unit(s) shall be operating at the applicable volume requirements set forth in Section 10 of these standards in the second 12 months after the date the service and its unit(s) is acquired, and annually thereafter.

(c) For any application for proposed acquisition of an existing fixed or mobile UESWL service, except the first application approved pursuant to subsection (3), for which a final decision has not been issued after MAY 2, 1998, an applicant shall be required to demonstrate that the UESWL service and its unit(s) to be acquired performed an average of at least 1,000 procedures per unit in the most recent 12-month period for which the Department has verifiable data.

(2) An applicant proposing to acquire an existing fixed or mobile UESWL unit(S) of an existing UESWL service shall demonstrate that the proposed project meets all of the following:

(a) The requirements of Section 4 and 7, as applicable, have been met.

(b) For any application for proposed acquisition of an existing fixed or mobile UESWL unit(s), an applicant shall be required to demonstrate that the UESWL unit(s) to be acquired performed an average of at least 1,000 procedures per unit in the most recent 12-month period for which the Department has verifiable data.

(c) The requirements of Section 3(1)(c) have been met.

Section 7. Requirements for approval for applicants proposing to relocate an existing UESWL service and/or UESWL unit(s)

Sec. 7. (1) An applicant proposing to relocate its existing UESWL service and its unit(s) shall demonstrate that the proposed project meets all of the following:

(a) The UESWL service and its unit(s) to be relocated is a fixed UESWL unit(s).

(b) The UESWL service to be relocated has been in operation for at least 36 months as of the date an application is submitted to the Department.

(c) The requirements of Sections 4 and 8, as applicable, have been met.

(d) The site to which the UESWL service will be relocated meets the requirements of Section 3(1)(c).

(e) The proposed new site is in the relocation zone.

(f) The UESWL service and its unit(s) to be relocated performed an average of at least 1,000 procedures per unit in the most recent 12-month period for which the Department has verifiable data.

(g) The applicant agrees to operate the UESWL service and its unit(s) in accordance with all applicable project delivery requirements set forth in Section 10 of these standards.

(2) An applicant proposing to relocate a fixed UESWL unit(s) of an existing UESWL service shall demonstrate that the proposed project meets all of the following:

(a) The existing UESWL service from which the UESWL unit(s) is to be relocated has been in operation for at least 36 months as of the date an application is submitted to the Department.

(b) The requirements of Sections 4 and 8, as applicable, have been met.

(c) The site to which the UESWL unit(s) will be relocated meets the requirements of Section 3(1)(c).

(d) The proposed new site is in the relocation zone.

(e) Each existing UESWL unit(s) at the service from which a unit is to be relocated performed at least an average of 1,000 procedures per fixed unit in the most recent 12-month period for which the Department has verifiable data.

(f) The applicant agrees to operate the UESWL unit(s) in accordance with all applicable project delivery requirements set forth in Section 10 of these Standards.

Section 8. Requirements for approval to expand an existing UESWL service

Sec. 8. An applicant proposing to expand an existing UESWL service, whether fixed or mobile, unless otherwise specified, shall demonstrate the following:

(1) All of the applicant's existing UESWL units, both fixed and mobile, at the same geographic location as the proposed additional UESWL unit, have performed an average of at least 1,800 procedures per UESWL unit during the most recent 12-month period for which the Department has verifiable data. In computing this average, the Department will divide the total number of UESWL procedures performed by the applicant's total number of UESWL units, including both operational and approved but not operational fixed and mobile UESWL units.

(2) The applicant shall project an average of at least 1,000 procedures for each existing and proposed fixed and mobile UESWL unit(s) as a result from the application of the methodology in Section 13 of these standards for the second 12-month period after initiation of operation of each additional UESWL unit whether fixed or mobile.

(3) An applicant proposing to expand an existing mobile UESWL service must provide a copy of the existing or revised contracts between the central service coordinator and each host site(s) that includes the same stipulations as specified in Section 5(1)(c).

Section 9. Requirements for approval – all applicants

Sec. 9. An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of service if a CON is approved.

Section 10. Project delivery requirements -- terms of approval for all applicants

Sec 10. (1) An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(a) Compliance with these standards.

(b) Compliance with applicable operating standards.

(c) Compliance with the following quality assurance standards:

(i) Each UESWL unit, whether fixed or mobile, shall perform at least an average of 1,000 procedures per unit per year in the second 12 months of operation and annually thereafter. The central service coordinator shall demonstrate that a mobile UESWL unit approved pursuant to these standards performed at least 100 procedures in each region that is served by the mobile unit. For purposes of this requirement, the number of UESWL procedures performed at all host sites in the same region shall be combined.

(ii) The medical staff and governing body shall receive and review at least annual reports describing activities of the UESWL service, including complication rates, morbidity data, and retreatment rates.

(iii) An applicant shall accept referrals for UESWL services from all appropriately licensed health care practitioners.

(iv) An applicant shall develop and utilize a standing medical staff and governing body rule that provides for the medical and administrative control of the ordering and utilization of UESWL services.

(v) An applicant shall require that each urologist serving as a UESWL surgeon shall have completed an approved training program in the use of the lithotripter at an established facility with UESWL services.

(vi) An applicant shall establish a process for credentialing urologists who are authorized to perform UESWL procedures at the applicant facility. This shall not be construed as a requirement to establish specific credentialing requirements for any particular hospital or UESWL site.

(vii) A urologist who is not an active medical staff member of an applicant facility shall be eligible to apply for limited staff privileges to perform UESWL procedures. Upon request by the Department, an applicant shall provide documentation of its process that will allow a urologist who is not an active medical staff member to apply for medical staff privileges for the sole and limited purpose of performing UESWL procedures. In order to be granted staff privileges limited to UESWL procedures, a urologist shall demonstrate that he or she meets the same requirements, established pursuant to the provisions of subsection (vi), that a urologist on an applicant facility's active medical staff must meet in order to perform UESWL procedures.

(viii) An applicant shall provide UESWL program access to approved physician residency programs for teaching purposes.

(ix) An applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(A) Not deny UESWL services to any individual based on inability to pay or source of payment,

(B) Provide UESWL services to any individual based on clinical indications of need for the services, and

(C) Maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(x) An applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to, annual budget and cost information; operating schedules; and demographic, diagnostic, morbidity and mortality information; primary diagnosis code; whether the procedure was a first or retreatment UESWL procedure; what other treatment already has occurred; outpatient or inpatient status; complications; and whether follow-up procedures (e.g., percutaneous nephrotomy) were required, as well as the volume of care provided to patients from all payor sources. An applicant shall provide the required data on a separate basis for each host site or licensed site in a format established by the Department and in a mutually-agreed-upon media. The Department may elect to verify the data through on-site review of appropriate records.

(xi) The applicant shall provide the Department with a notice stating the date the approved UESWL service and its unit(s) is placed in operation and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(xii) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(2) The operation of and referral of patients to the UESWL service shall be in conformance with 1978 PA 368, Sec. 16221, as amended by 1986 PA 319; MCL 333.16221; MSA 14.15 (16221).

(3) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 11. Project delivery requirements - additional terms of approval for applicants involving mobile UESWL services

Sec. 11. (1) In addition to the provisions of Section 10, an applicant for a mobile UESWL service shall agree that the services provided by the mobile UESWL unit(s) shall be delivered in compliance with the following terms of CON approval:

(a) The volume of UESWL procedures performed at each host site shall be reported to the Department by the central service coordinator.

(b) An applicant with an approved CON for a mobile UESWL service shall notify the Department and the local CON review agency, if any, at least 30 days prior to dropping an existing host site.

(c) Each mobile UESWL service shall establish and maintain an Operations Committee consisting of the central service coordinator's medical director and members representing each host site and the central service coordinator. This committee shall oversee the effective and efficient use of the UESWL unit, establish the normal route schedule, identify the process by which changes are to be made to the schedule, develop procedures for handling emergency situations, and review the ongoing operations of the mobile UESWL service and its unit(s) on at least a quarterly basis.

(d) The central service coordinator shall arrange for emergency repair services to be available 24 hours each day for the mobile UESWL unit equipment and the vehicle transporting the equipment.

(e) If the host site will not be performing the lithotripsy procedures inside the facility, it must provide a properly prepared parking pad for the mobile UESWL unit of sufficient load-bearing capacity to support the vehicle, a waiting area for patients, and a means for patients to enter the vehicle without going outside (such as a canopy or enclosed corridor). Each host site also must provide the capability for maintaining the confidentiality of patient records. A communication system must be provided between the mobile vehicle and each host site to provide for immediate notification of emergency medical situations.

(f) A mobile UESWL service shall operate under a contractual agreement that includes the provision of UESWL services at each host site on a regularly scheduled basis.

(2) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 12. Regions

Sec. 12. The counties assigned to each region are as follows:

Region	Counties			
1	Livingston St. Clair	Monroe Washtenaw	Macomb Wayne	Oakland
2	Clinton Jackson	Eaton Lenawee	Hillsdale	Ingham
3	Barry	Berrien	Branch	Calhoun

	Cass	Kalamazoo	St. Joseph	Van Buren
4	Allegan	Ionia	Kent	Lake
	Mason	Mecosta	Montcalm	Muskegon
	Newaygo	Oceana	Osceola	Ottawa
5	Genesee	Lapeer	Shiawassee	
6	Arenac	Bay	Clare	Gladwin
	Gratiot	Huron	Iosco	Isabella
	Midland	Ogemaw	Roscommon	Saginaw
	Sanilac	Tuscola		
7	Alcona	Alpena	Antrim	Benzie
	Crawford	Charlevoix	Cheboygan	Emmet
	Gd. Traverse	Kalkaska	Leelanau	Manistee
	Missaukee	Montmorency	Oscoda	Otsego
	Presque Isle	Wexford		
8	Alger	Baraga	Chippewa	Delta
	Dickinson	Gogebic	Houghton	Iron
	Keweenaw	Luce	Mackinac	Marquette
	Menominee	Ontonagon	Schoolcraft	

Section 13. Methodology for projecting UESWL procedures

Sec. 13. (1) The methodology set forth in this subsection shall be used for projecting the number of UESWL procedures at a site or sites that do not provide UESWL services as of the date an application is submitted to the Department. In applying the methodology, actual inpatient discharge data, as specified in the most recent Michigan Inpatient Database available to the Department on the date an application is deemed complete shall be used for each licensed hospital site for which a signed data commitment form has been provided to the Department in accordance with the provisions of Section 14. In applying inpatient discharge data in the methodology, each inpatient record shall be used only once and the following steps shall be taken in sequence:

(a) The number of inpatient records with a diagnosis, either principal or nonprincipal, of ICD-9-CM codes 592.0, 592.1, or 592.9 shall be counted.

(b) The result of subsection (a) shall be multiplied by the factor specified in Appendix A for each licensed hospital site that is committing its inpatient discharge data to a CON application. If more than one licensed hospital site is committing inpatient discharge data in support of a CON application, the products from the application of the methodology for each licensed hospital site shall be summed.

(c) The result of subsection (b) is the total number of projected UESWL procedures for an application that is proposing to provide fixed or mobile UESWL services at a site, or sites in the case of a mobile service, that does not provide UESWL service, either fixed or mobile, as of the date an application is submitted to the Department.

(2) For a site or sites that provide UESWL services as of the date an application is submitted to the Department, the actual number of UESWL procedures performed at each site, during the most recent

continuous 12-month period for which the Department has verifiable data, shall be the number used to project the number of UESWL procedures that will be performed at that site or sites.

(3) For a proposed UESWL unit, except for initiation, the results of subsections (1) and (2), as applicable, shall be summed and the result is the projected number of UESWL procedures for the proposed UESWL unit for purposes of the applicable sections of these standards.

(4) An applicant that is projecting UESWL procedures pursuant to subsection (1) shall provide access to verifiable hospital-specific data and documentation using a format prescribed by the Department.

Section 14. Requirements for MIDB data commitments

Sec. 14. (1) In order to use MIDB data in support of an application for UESWL services, an applicant shall demonstrate or agree to, as applicable, all of the following.

(a) A licensed hospital site whose MIDB data is used in support of a CON application for a UESWL service shall not use any of its MIDB data in support of any other application for a UESWL service for 5 years following the date the UESWL service to which the MIDB data are committed begins to operate. The licensed hospital site shall be required to commit 100% of its inpatient discharge data to a CON application.

(b) The licensed hospital site, or sites, committing MIDB data to a CON application has completed the departmental form(s) that agrees to or authorizes each of the following:

(i) The Michigan Health and Hospital Association may verify the MIDB data for the Department.

(ii) An applicant shall pay all charges associated with verifying the MIDB data.

(iii) The commitment of the MIDB data remains in effect for the period of time specified in subsection (1)(a).

(c) A licensed hospital site that is proposing to commit MIDB data to an application is admitting patients regularly as of the date the director makes the final decision on that application under Section 22231(9) of the Code, being Section 333.22231(9) of the Michigan Compiled Laws.

(2) The Department shall consider an MIDB data commitment in support of an application for a UESWL service from a licensed hospital site that meets all of the following:

(a) The licensed hospital site proposing to commit MIDB data to an application does not provide, or does not have a valid CON to provide, UESWL services, either fixed or mobile, as of the date an application is submitted to the Department.

(b) The licensed hospital site proposing to commit MIDB data is located in a region in which a proposed fixed UESWL service is proposed to be located or, in the case of a mobile unit, has at least one host site proposed in that region.

(c) The licensed hospital site meets the requirements of subsection (1), as applicable.

Section 15. Effect on prior planning policies; comparative reviews

Sec. 15. (1) These CON review standards supersede and replace the CON review standards for urinary extracorporeal shock wave lithotripsy (UESWL) services approved by the CON Commission on March 9, 2004 and effective on June 4, 2004.

(2) Projects reviewed under these standards shall not be subject to comparative review.

APPENDIX A

Factor For Calculating Projected UESWL Procedures

(1) Until changed by the Department, the factor to be used in Section 13(1)(b) used for calculating the projected number of UESWL procedures shall be .94.

(2) The Department may amend Appendix A by revising the factor in subsection (1) in accordance with the following steps:

(a) Steps for determining preliminary statewide UESWL adjustment factor:

(i) Determine the total statewide number of inpatient records with a diagnosis, either principal or nonprincipal, of ICD-9-CM codes 592.0, 592.1, or 592.9 for the most recent year for which Michigan Inpatient Database information is available to the Department.

(ii) Determine the total number of UESWL procedures performed in the state using the Department's Annual Hospital Questionnaire for the same year as the MIDB being used in subsection (i) above.

(iii) Divide the number of UESWL procedures determined in subsection (ii) above by the number of inpatient records determined in subsection (i) above.

(b) Steps for determining urban/rural adjustment factor:

(i) For each hospital, assign urban/rural status based on the 2000 census. "Metropolitan statistical area counties" will be assigned "urban" status, and "micropolitan statistical area" and "rural" counties will be assigned "rural" status.

(ii) The records from step (a)(i) above will then be aggregated by "urban/rural" and zip code.

(iii) Zip codes that are totally "urban" or "rural" will have the discharges and populations aggregated for those respective groups.

(iv) For the remaining zip codes with both "urban" and "rural" components, the proportion of the zip code in each part (urban or rural) will be calculated and applied to the population for that zip code.

(v) These will then be aggregated by discharge and population by urban/rural status.

(vi) The sub-totals from step (v) will then be added to the sub-totals from step (iii) to produce totals for "urban" & "rural" separately per 10,000 population.

(vii) The percentage difference between "urban" and "rural" discharge rates will be applied to the rate identified in step (a)(iii) above. The result is the revised factor for calculating UESWL procedures.

(3) The Department shall notify the Commission when this revision is made and the effective date of the revision.

APPENDIX B

CON REVIEW STANDARDS FOR UESWL SERVICES

Rural Michigan counties are as follows:

Alcona	Hillsdale	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego

Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Mason	Schoolcraft
Emmet	Montcalm	Tuscola
Gladwin	Montmorency	
Gogebic	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Gratiot	Mecosta
Alpena	Houghton	Menominee
Benzie	Isabella	Midland
Branch	Kalkaska	Missaukee
Chippewa	Keweenaw	St. Joseph
Delta	Leelanau	Shiawassee
Dickinson	Lenawee	Wexford
Grand Traverse	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Ionia	Newaygo
Bay	Jackson	Oakland
Berrien	Kalamazoo	Ottawa
Calhoun	Kent	Saginaw
Cass	Lapeer	St. Clair
Clinton	Livingston	Van Buren
Eaton	Macomb	Washtenaw
Genesee	Monroe	Wayne
Ingham	Muskegon	

Source:

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Statistical Policy Office
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CERTIFICATE OF NEED REVIEW STANDARDS

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR PSYCHIATRIC BEDS AND SERVICES

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and Sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being Sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws).

Section 1. Applicability

Sec. 1. (1) These standards are requirements for the approval and delivery of services for all projects approved and Certificates of Need issued under Part 222 of the Code which involve psychiatric beds and services.

(2) A psychiatric hospital or unit is a covered health facility for purposes of Part 222 of the Code.

(3) An increase in licensed psychiatric beds or the physical relocation from a licensed site to another geographic location is a change in bed capacity for purposes of Part 222 of the Code.

(4) The Department shall use sections 3, 4, 5, 6, 7, 8, 9, and 10, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(5) The Department shall use Sections 12 and 13, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(6) The Department shall use Section 11 in applying Section 22215(1)(b) of the Code, being Section 333.22215(1)(b) of the Michigan Compiled Laws

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of a psychiatric hospital or unit" means the issuance of a new license as the result of the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing licensed psychiatric hospital or unit and which does not involve a change in the number of licensed psychiatric beds at that health facility.

(b) “Adult” means any individual aged 18 years or older.

(c) "Base year" means 1992 or the most recent year for which verifiable data are collected by the Department and are available separately for the population age cohorts of 0 to 17 and 18 and older.

(d) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(e) "Child/adolescent" means any individual less than 18 years of age.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(g) "Community mental health board" or "board" or "CMH" means the board of a county(s) community mental health board as referenced in the provisions of MCL 330.1200 to 330.1246.

(h) "Comparative group" means the applications which have been grouped for the same type of project in the same planning area and are being reviewed comparatively in accordance with the CON rules.

(i) "Department" means the Michigan Department of Community Health (MDCH).

(j) "Department inventory of beds" means the current list maintained by the Department which includes:

(i) licensed adult and child/adolescent psychiatric beds; and

(ii) adult and child/adolescent psychiatric beds approved by a valid CON, which are not yet licensed. A separate inventory will be maintained for child/adolescent beds and adult beds.

(k) "Existing adult inpatient psychiatric beds" or "existing adult beds" means:

(i) all adult beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;

(ii) all adult beds approved by a valid CON, which are not yet licensed;

(iii) proposed adult beds under appeal from a final Department decision, or pending a hearing from a proposed decision; and

(iv) proposed adult beds that are part of a completed application (other than the application or applications in the comparative group under review) which are pending final Department decision.

(l) "Existing child/adolescent inpatient psychiatric beds" or "existing child/adolescent beds" means:

(i) all child/adolescent beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;

(ii) all child/adolescent beds approved by a valid CON, which are not yet licensed;

(iii) proposed child/adolescent beds under appeal from a final Department decision, or pending a hearing from a proposed decision; and

(iv) proposed child/adolescent beds that are part of a completed application (other than the application or applications in the comparative group under review) which are pending final Department decision.

(m) "Initiation of service" means the establishment of an inpatient psychiatric unit with a specified number of beds at a site not currently providing psychiatric services.

(n) "Involuntary commitment status" means a hospital admission effected pursuant to the provisions of MCL 330.1423 to 330.1429.

(o) "Licensed site" means either:

(i) in the case of a single site hospital, the location of the facility authorized by license and listed on that licensee's certificate of licensure; or

(ii) in the case of a hospital with multiple sites, the location of each separate and distinct inpatient unit of the health facility as authorized by license and listed on that licensee's certificate of licensure.

(p) "Medicaid" means title XIX of the Social Security Act, chapter 531, 49 Stat. 620, 1396r-6 and1396r-8 to 1396v.

(q) "Mental Health Code" means Act 258 of the Public Acts of 1974, as amended, being Sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(r) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is any 1 of the following:

(i) a physician who is licensed to practice medicine or osteopathic medicine and surgery in Michigan and who has had substantial experience with mentally ill, mentally retarded, or

developmentally disabled clients for 1 year immediately preceding his or her involvement with a client under administrative rules promulgated pursuant to the Mental Health Code;

(ii) a psychologist who is licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(iii) a licensed master's social worker licensed in Michigan Pursuant to the provisions of MCL 333.16101 to 333.18838;

(iv) a registered nurse who is licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(v) a licensed professional counsel or licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(vi) a marriage and family therapist licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(vii) a professional person, other than those defined in the administrative rules promulgated pursuant to the Mental Health Code, who is designated by the Director of the Department or a director of a facility operated by the Department in written policies and procedures. This mental health professional shall have a degree in his or her profession and shall be recognized by his or her respective professional association as being trained and experienced in the field of mental health. The term does not include non-clinical staff, such as clerical, fiscal or administrative personnel.

(s) "Mental health service" means the provision of mental health care in a protective environment with mental illness or mental retardation, including, but not limited to, chemotherapy and individual and group therapies pursuant to MCL 330.2001.

(t) "Non-renewal or revocation of license" means the Department did not renew or revoked the psychiatric hospital's or unit's license based on the hospital's or unit's failure to comply with state licensing standards.

(u) "Non-renewal or termination of certification" means the psychiatric hospital's or unit's Medicare and/or Medicaid certification was terminated or not renewed based on the hospital's or unit's failure to comply with Medicare and/or Medicaid participation requirements.

(v) "Offer" means to provide inpatient psychiatric services to patients.

(w) "Physician" means an individual licensed in Michigan to engage in the practice of medicine or osteopathic medicine and surgery pursuant to MCL 333.16101 to 333.18838.

(x) "Planning area" means the geographic boundaries of the groups of counties shown in Section 15.

(y) "Planning year" means 1990 or a year in the future, at least 3 years but no more than 7 years, established by the CON Commission for which inpatient psychiatric bed needs are developed. The planning year shall be a year for which official population projections from the Department of Management and Budget are available.

(z) "Psychiatric hospital" means an inpatient program operated by the Department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under Section 137, pursuant to MCL 330.1100.

(aa) "Psychiatrist" means 1 or more of the following, pursuant to MCL 330.1100:

(i) a physician who has completed a residency program in psychiatry approved by the Accreditation Council for Graduate Medical Education or The American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program;

(ii) a psychiatrist employed by or under contract with the Department or a community health services program on March 28, 1996;

(iii) a physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the Director.

(bb) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbances pursuant to MCL 330.1100.

(cc) "Psychologist" means an individual licensed to engage in the practice of psychology, who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability, pursuant to MCL 333.16101 to 333.18838.

(dd) "Public patient" means an individual approved for mental health services by a CMH or an individual who is admitted as a patient under Section 423, 429, or 438 of the Mental Health Code, Act No. 258 of the Public Acts of 1974, being Sections 330.1423, 330.1429, and 330.1438 of the Michigan Compiled Laws.

(ee) "Qualifying project" means each application in a comparative group which has been reviewed individually and has been determined by the Department to have satisfied all of the requirements of Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws, and all other applicable requirements for approval in the Code and these standards.

(ff) "Registered professional nurse" or "R.N." means an individual licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838.

(gg) "Replacement beds" means beds in a psychiatric hospital or unit which meet all of the following conditions:

(i) an equal or greater number of beds are currently licensed to the applicant at the current licensed site;

(ii) the beds are proposed for replacement in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, or other comparable arrangement); and

(iii) the beds to be replaced will be located in the replacement zone.

(hh) "Replacement zone" means a proposed licensed site which is:

(i) in the same planning area as the existing licensed site; and

(ii) on the same site, on a contiguous site, or on a site within 15 miles of the existing licensed site.

(ii) "Social worker" means an individual registered in Michigan to engage in social work under the provisions of MCL 333.18501.

(2) The terms defined in the Code have the same meanings when used in these standards.

Section 3. Determination of needed inpatient psychiatric bed supply

Sec. 3. (1) Until changed by the Commission in accordance with Section 4(3) and Section 5, the use rate for the base year for the population age 0-17 is set forth in Appendix D.

(2) The number of child/adolescent inpatient psychiatric beds needed in a planning area shall be determined by the following formula:

(a) Determine the population for the planning year for each separate planning area for the population age 0-17.

(b) Multiply the population by the use rate established in Appendix D. The resultant figure is the total patient days.

(c) Divide the total patient days obtained in subsection (b) by 365 (or 366 for leap years) to obtain the projected average daily census (ADC).

(d) Divide the ADC by 0.75.

(e) For each planning area, all psychiatric hospitals or units with an average occupancy of 60% or less for the previous 24 months will have the ADC, for the previous 24 months, multiplied by 1.7. The net decrease from the current licensed beds will give the number to be added to the bed need.

(f) The adjusted bed need for the planning area is the sum of the results of subsections (d) and (e).

(3) The number of needed adult inpatient psychiatric beds shall be determined by multiplying the population aged 18 years and older for the planning year for each planning area by either:

(a) The ratio of adult beds per 10,000 adult population set forth in Appendix C; or

(b) The statewide ratio of adult beds per 10,000 adult population set forth in Appendix C, whichever is lower; and dividing the result by 10,000. If the ratio set forth in Appendix C for a specific planning area is "0", the statewide ratio of adult beds per 10,000 adult population shall be used to determine the number of needed adult inpatient psychiatric beds.

(c) For each planning area, an addition to the bed need will be made for low occupancy facilities. All psychiatric hospitals or units with an average occupancy of 60% or less for the previous 24 months will have the ADC, for the previous 24 months, multiplied by 1.5. The net decrease from the current licensed beds will give the number to be added to the bed need.

(d) The adjusted bed need for the planning area is the sum of the results of subsections (b) and (c).

Section 4. Bed need for inpatient psychiatric beds

Sec. 4. (1) For purposes of these standards, until otherwise changed by the Commission, the bed need numbers determined pursuant to Section 3, incorporated as part of these standards as Appendices A and B, as applicable, shall apply to projects subject to review under these standards, except where a specific CON review standard states otherwise.

(2) The Department shall apply the bed need methodologies in Section 3 on a biennial basis.

(3) The Commission shall designate the planning year, and, for child/adolescent beds, the base year, which shall be utilized in applying the bed need methodologies pursuant to subsection (2).

(4) The effective date of the bed need numbers shall be established by the Commission.

(5) New bed need numbers established by subsections (2) and (3) shall supercede the bed need numbers shown in Appendices A and B and shall be included as amended appendices to these standards.

(6) Modifications made by the Commission pursuant to this Section shall not require Standard Advisory Committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 5. Modification of the child/adolescent use rate by changing the base year

Sec. 5. (1) The Commission may modify the base year based on data obtained from the Department and presented to the Commission. The Department shall calculate the use rate for the population age 0-17 and biennially present the revised use rate based on the most recent base year information available biennially to the CON Commission.

(2) The Commission shall establish the effective date of the modifications made pursuant to subsection (1).

(3) Modifications made by the Commission pursuant to subsection (1) shall not require Standard Advisory Committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 6. Requirements for approval to initiate service

Sec. 6. An applicant proposing the initiation of an adult or child/adolescent psychiatric service shall demonstrate or provide the following:

(1) The number of beds proposed in the CON application cannot result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the bed need set forth in Appendix A or B, as applicable. However, an applicant may request and be approved for up to a maximum of 10 beds if, when the total number of existing adult beds or existing child/adolescent beds is subtracted from the bed need for the planning area set forth in Appendix A or B, the difference is equal to or more than 1 or less than 10.

(2) A written recommendation, from the Department or the CMH that serves the county in which the proposed beds or service will be located, which shall include an agreement to enter into a contract to meet the needs of the public patient. At a minimum, the letter of agreement shall specify the number of beds to be allocated to the public patient and the applicant's intention to serve patients with an involuntary commitment status.

(3) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50% of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (5) shall allocate not less than 80% of the beds proposed in the CON application.

(4) The minimum number of beds in a psychiatric unit shall be at least 10 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, each unit shall have a minimum of 10 beds. The Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates to the satisfaction of the Department, that travel time to existing units would significantly limit access to care.

(5) An applicant shall not be required to be in compliance with subsection (1) if the applicant demonstrates that the application meets both of the following:

(a) The Director of the Department determines that an exception to subsection (1) should be made and certifies in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(b) The proposed beds will be located in the area currently served by the public institution that will be closed, as determined by the Department.

Section 7. Requirements for approval to increase beds

Sec. 7 An applicant proposing an increase in the number of adult or child/adolescent beds shall demonstrate or provide the following:

(1) The number of beds proposed in the CON application will not result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the bed need set forth in Appendix A or B, as applicable. However, an applicant may request and be approved for up to a maximum of 10 beds if, when the total number of existing adult beds or existing child/adolescent beds is subtracted from the bed need for the planning area set forth in Appendix A or B, the difference is equal to or more than 1 or less than 10.

(2) The average occupancy rate for the applicant's facility, where the proposed beds are to be located, was at least 70% for adult or child/adolescent beds, as applicable, during the most recent, consecutive 24 month period, as of the date of the submission of the application, for which verifiable data are available to the Department.

(3) Subsections (1) and (2) shall not apply if the applicant meets the following:

(a) the beds are being added at the existing licensed site;

(b) the average occupancy rate for the applicant's facility was at least 75% for facilities with 19 beds or less and 80% for facilities with 20 beds or more, as applicable, during the most recent, consecutive 24 month period, as of the date of the submission of the application, for which verifiable data are available to the Department;

(c) the number of beds being added shall not exceed the results of the following formula: the facility's average daily census for the most recent, consecutive 24 month period, as of the date of the submission of the application, for which verifiable data are available to the Department multiplied by 1.5 for adult beds and 1.7 for child/adolescent beds.

(4) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with at least one CMH or its designee that serves the planning area in which the proposed beds or service will be located.

(5) Previously made commitments, if any, to the Department or CMH to serve public patients have been fulfilled.

(6) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50% of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (9) shall allocate not less than 80% of the beds proposed in the CON application.

(7) The minimum number of beds in a psychiatric unit shall be at least 10 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, then each unit shall have a minimum of 10 beds. The Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates, to the satisfaction of the Department, that travel time to existing units would significantly impair access to care.

(8) Subsection (2) shall not apply if the Director of the Department has certified in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital.

(9) An applicant shall not be required to be in compliance with subsection (1) if the applicant demonstrates that the application meets both of the following:

(a) The Director of the Department determines that an exception to subsection (1) should be made and certifies in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(b) The proposed beds will be located in the area currently served by the public institution that will be closed as determined by the Department.

Section 8. Requirements for approval for replacement beds

Sec. 8. An applicant proposing replacement beds shall not be required to be in compliance with the needed bed supply set forth in Appendix A or B, as applicable, if the applicant demonstrates all of the following:

(1) The project proposes to replace an equal or lesser number of beds currently licensed to the applicant at the licensed site at which the proposed replacement beds are currently located.

(2) The proposed licensed site is in the replacement zone.

(3) The applicant meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

(4) Not less than 50% of the beds proposed to be replaced shall be allocated for use by public patients.

(5) Previously made commitments, if any, to the Department or CMH to serve public patients have been fulfilled.

(6) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with the CMH or its designee that serves the planning area in which the proposed beds or service will be located.

Section 9. Requirements for approval for acquisition of a psychiatric hospital or unit

Sec. 9. An applicant proposing to acquire a psychiatric hospital or unit shall not be required to be in compliance with the needed bed supply set forth in Appendix A or B, as applicable, for the planning area in which the psychiatric hospital or unit subject to the proposed acquisition is located, if the applicant demonstrates that all of the following are met:

(1) The acquisition will not result in a change in the number of licensed beds or beds designated for a child/adolescent specialized psychiatric program.

(2) The licensed site does not change as a result of the acquisition.

Section 10. Additional requirements for applications included in comparative review

Sec. 10. (1) Any application subject to comparative review under Section 22229 of the Code being Section 333.22229 of the Michigan Compiled Laws or these standards shall be grouped and reviewed with other applications in accordance with the CON rules applicable to comparative review.

(2) Each application in a comparative group shall be individually reviewed to determine whether the application has satisfied all the requirements of Section 22225 of the Code being Section 333.22225 of the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these standards. If the Department determines that two or more competing applications satisfy all of the requirements for approval, these projects shall be considered qualifying projects. The Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1) of the Code, and which have the highest number of points when the results of subsection (3) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, when taken together, do not exceed the need, in the order in which the applications were received by the Department, based on the date and time stamp placed on the applications by the Department in accordance with rule 325.9123.

(3)(a) A qualifying project application will be awarded 5 points if, within six months of beginning operation and annually thereafter, 100% of the licensed psychiatric beds (both existing and proposed) at the facility will be Medicaid certified.

(b) A qualifying project will have 4 points deducted if, on or after November 26, 1995, the records maintained by the Department document that the applicant was required to enter into a contract with either the Department or a CMH to serve the public patient and did not do so.

(c) A qualifying project will have 5 points deducted if, on or after November 26, 1995, the records maintained by the Department document that the applicant entered into a contract with MDCH or CMH but never admitted any public patients referred pursuant to that contract.

(d) A qualifying project will have 5 points deducted if, on or after November 26, 1995, the records maintained by the Department document that an applicant agreed to serve patients with an involuntary commitment status but has not admitted any patients referred with an involuntary commitment status.

(e) A qualifying project will be awarded 3 points if the applicant presents, in its application, a plan, acceptable to the Department, for the treatment of patients requiring long-term treatment. For purposes of this subsection, long-term treatment is defined to mean an inpatient length of stay in excess of 45 days.

(f) A qualifying project will be awarded 3 points if the applicant currently provides a partial hospitalization psychiatric program, outpatient psychiatric services, or psychiatric aftercare services, or the applicant includes any of these services as part of their proposed project, as demonstrated by site plans and service contracts.

(g) A qualifying project will have 4 points deducted if the Department has issued, within three years prior to the date on which the CON application was deemed submitted, a temporary permit or provisional license due to a pattern of licensure deficiencies at any psychiatric hospital or unit owned or operated by the applicant in this state.

(h) A qualifying project will have points awarded based on the percentage of the hospital's indigent volume as set forth in the following table.

Hospital Indigent Volume	Points Awarded
0 - <6%	1

6 - <11%	2
11 - <16%	3
16 - <21%	4
21 - <26%	5
26 - <31%	6
31 - <36%	7
36 - <41%	8
41 - <46%	9
46% +	10

For purposes of this subsection, indigent volume means the ratio of a hospital's indigent charges to its total charges expressed as a percentage as determined by the Department pursuant to Chapter VIII of the Medical Assistance Program manual. The indigent volume data being used for rates in effect at the time the application is deemed submitted will be used by the Department in determining the number of points awarded to each qualifying project.

(i) A qualifying project will have points deducted based on the applicant's record of compliance with applicable safety and operating standards for any psychiatric hospital or unit owned and/or operated by the applicant in this state. Points shall be deducted in accordance with the following schedule if, on or after November 26, 1995, the Department records document any non-renewal or revocation of license for cause or non-renewal or termination of certification for cause of any psychiatric hospital or unit owned or operated by the applicant in this state.

Psychiatric Hospital/Unit Compliance Action	Points Deducted
Non-renewal or revocation of license	4
Non-renewal or termination of:	
Certification - Medicare	4
Certification - Medicaid	4

(4) The minimum number of points will be awarded to an applicant under the individual subsections of this Section for conflicting information presented in this Section and related information provided in other Sections of the CON application.

Section 11. Requirements for approval for all applicants

Sec. 11. An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved.

Section 12. Project delivery requirements - terms of approval for all applicants

Sec. 12. (1) An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(a) Compliance with these standards.

(b) Compliance with applicable operating standards in the Mental Health Code or the administrative rules promulgated there under.

(c) Compliance with the following applicable quality assurance standards:

(i) The average occupancy rate for all licensed beds at the psychiatric hospital or unit shall be at least 60 percent (%) for adult beds and 40 percent (%) for child/adolescent beds for the second 12 months of operation, and annually thereafter. After the second 12 months of operation, if the average occupancy rate is below 60% for adult beds or 40% for child/adolescent beds, the number of beds shall be reduced to achieve a minimum of 60% average annual occupancy for adult beds or 40% annual average occupancy for child/adolescent beds for the revised licensed bed complement. However, the psychiatric hospital or unit shall not be reduced to less than 10 beds.

(ii) The proposed licensed psychiatric beds shall be operated in a manner that is appropriate for a population with the ethnic, socioeconomic, and demographic characteristics including the developmental stage of the population to be served.

(iii) The applicant shall establish procedures to care for patients who are disruptive, combative, or suicidal and for those awaiting commitment hearings, and the applicant shall establish a procedure for obtaining physician certification necessary to seek an order for involuntary treatment for those persons that, in the judgment of the professional staff, meet the Mental Health Code criteria for involuntary treatment.

(iv) The applicant shall develop a standard procedure for determining, at the time the patient first presents himself or herself for admission or within 24 hours after admission, whether an alternative to inpatient psychiatric treatment is appropriate.

(v) The inpatient psychiatric hospital or unit shall provide clinical, administrative, and support services that will be at a level sufficient to accommodate patient needs and volume, and will be provided seven days a week to assure continuity of services and the capacity to deal with emergency admissions.

(vi) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to: annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data on a separate basis for each licensed site; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(vii) The applicant shall provide the Department with a notice stating the date the beds or services are placed in operation and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(viii) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(A) Not deny acute inpatient mental health services to any individual based on ability to pay, source of payment, age, race, handicap, national origin, religion, gender, sexual orientation or commitment status;

(B) Provide acute inpatient mental health services to any individual based on clinical indications of need for the services;

(C) Maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(ix) An applicant required to enter into a contract with a CMH(s) or the Department pursuant to these standards shall have in place, at the time the approved beds or services become operational, a signed contract to serve the public patient. The contract must address a single entry and exit system including discharge planning for each public patient. The contract shall specify that at least 50% or 80% of the approved beds, as required by the applicable sections of these standards, shall be allocated to the public

patient, and shall specify the hospital's or unit's willingness to admit patients with an involuntary commitment status. The contract need not be funded.

(x) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(2) Compliance with this Section shall be determined by the Department based on a report submitted by the applicant and/or other information available to the Department.

(3) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 13. Project delivery requirements - additional terms of approval for child/adolescent service

Sec. 13. (1) In addition to the provisions of Section 12, an applicant for a child/adolescent service shall agree to operate the program in compliance with the following terms of CON approval, as applicable:

(a) There shall be at least the following child and adolescent mental health professionals employed, either directly or by contract, by the hospital or unit, each of whom must have been involved in the delivery of child/adolescent mental health services for at least 2 years within the most recent 5 years:

(i) a child/adolescent psychiatrist;

(ii) a child psychologist;

(iii) a psychiatric nurse;

(iv) a psychiatric social worker;

(v) an occupational therapist or recreational therapist; and

(b) There shall be a recipient rights officer employed by the hospital or the program.

(c) The applicant shall identify a staff member(s) whose assigned responsibilities include discharge planning and liaison activities with the home school district(s).

(d) There shall be the following minimum staff employed either on a full time basis or on a consulting basis:

(i) a pediatrician;

(ii) a child neurologist;

(iii) a neuropsychologist;

(iv) a speech and language therapist;

(v) an audiologist; and

(vi) a dietician.

(e) A child/adolescent service shall have the capability to determine that each inpatient admission is the appropriate treatment alternative consistent with Section 498e of the Mental Health Code, being Section 330.1498e of the Michigan Compiled Laws.

(f) The child/adolescent service shall develop and maintain a coordinated relationship with the home school district of any patient to ensure that all public education requirements are met.

(g) The applicant shall demonstrate that the child/adolescent service is integrated within the continuum of mental health services available in its planning area by establishing a formal agreement with the CMH(s) serving the planning area in which the child/adolescent specialized psychiatric program is located. The agreement shall address admission and discharge planning issues which include, at a minimum, specific procedures for referrals for appropriate community services and for the exchange of information with the CMH(s), the probate court(s), the home school district, the Michigan

Department of Human Services, the parent(s) or legal guardian(s) and/or the patient's attending physician.

(2) Compliance with this Section shall be determined by the Department based on a report submitted by the program and/or other information available to the Department.

(3) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 14. Department inventory of beds

Sec. 14. The Department shall maintain, and provide on request, a listing of the Department Inventory of Beds for each adult and child/adolescent planning area.

Section 15. Planning areas

Sec. 15. The planning areas for inpatient psychiatric beds are the geographic boundaries of the groups of counties as follows.

Planning Areas	**Counties**
1	Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne
2	Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee
3	Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph, Van Buren
4	Allegan, Ionia, Kent, Lake, Mason, Montcalm, Muskegon, Newaygo, Oceana, Ottawa
5	Genesee, Lapeer, Shiawassee
6	Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Mecosta, Ogemaw, Osceola, Oscoda, Saginaw, Sanilac, Tuscola
7	Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Otsego, Presque Isle, Roscommon, Wexford
8	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft

Section 16. Effect on prior CON review standards; comparative reviews

Sec. 16. (1) These CON review standards supercede and replace the CON Review Standards for Psychiatric Beds and Services, approved by the CON Commission on June 22, 2005 and effective on October 17, 2005.

(2) Projects involving replacement beds or an increase in beds, approved pursuant to Section 7(3), are reviewed under these standards and shall not be subject to comparative review.

(3) Projects involving initiation of services or an increase in beds, approved pursuant to Section 7(1), are reviewed under these standards and shall be subject to comparative review.

APPENDIX A

CON REVIEW STANDARDS FOR CHILD/ADOLESCENT PSYCHIATRIC BEDS

The bed need numbers, for purposes of these standards until otherwise changed by the Commission, are as follows:

Planning Area	Bed Need
1	109
2	12
3	20
4	40
5	20
6	17
7	8
8	5
TOTAL	231

APPENDIX B

CON REVIEW STANDARDS FOR ADULT PSYCHIATRIC BEDS

The bed need numbers, for purposes of these standards until otherwise changed by the Commission, are as follows:

PLANNING AREA	BED NEED

1	1011
2	170
3	186
4	282
5	172
6	101
7	51
8	37
TOTAL	2010

APPENDIX C

RATIO OF ADULT INPATIENT PSYCHIATRIC BEDS PER 10,000 ADULT POPULATION

PLANNING AREA	ADULT BEDS PER 10,000 ADULT POPULATION
1	2.9521
2	2.3372
3	2.4239
4	2.4423
5	2.9853
6	1.3419
7	1.2070
8	1.4938
STATE	2.5342

APPENDIX D

CON REVIEW STANDARDS FOR CHILD/ADOLESCENT INPATIENT PSYCHIATRIC BEDS

The use rate per 1000 population age 0-17, for purposes of these standards, until otherwise changed by the Commission, is 18.53.

CERTIFICATE OF NEED REVIEW STANDARDS

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR OPEN HEART SURGERY SERVICES

(By the authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for approval and delivery of services for all projects approved and certificates of need issued under Part 222 of the Code which involve open heart surgery services.

(2) Open heart surgery is a covered clinical service for purposes of Part 222 of the Code.

(3) The Department shall use sections 3, 4, 6, 8, and 9, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use Section 7 in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(5) The Department shall use Section 5 in applying Section 22215(1)(b) of the Code, being Section 333.22215(1)(b) of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) “Adult open heart surgery” means open heart surgery offered and provided to individuals age 15 and older as defined in subsection (i).

(b) "Cardiac surgical team" means the designated specialists and support personnel who consistently work together in the performance of open heart surgery.

(c) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(d) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(e) "Department" means the Michigan Department Of Community Health (MDCH).

(f) "ICD-9-CM code" means the disease codes and nomenclature found in the International Classification of Diseases - 9th Revision - Clinical Modification, prepared by the Commission on Professional and Hospital Activities for the U.S. National Center for Health Statistics.

(g) " Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and1396r-8 to 1396v.

(h) "Michigan inpatient data base" or "MIDB" means the data base compiled by the Michigan Health and Hospital Association or successor organization. The data base consists of inpatient

discharge records from all Michigan hospitals and Michigan residents discharged from hospitals in border states for a specific calendar year.

(i) "Open heart surgery" means any cardiac surgical procedure involving the heart and/or thoracic great vessels (excluding organ transplantation) that is intended to correct congenital and acquired cardiac and coronary artery disease and/or great vessels and often uses a heart-lung pump (pumps and oxygenates the blood) or its equivalent to perform the functions of circulation during surgery. These procedures may be performed off-pump (beating heart), although a heart-lung pump is still available during the procedure.

(j) "Open heart surgical case" means a single visit to an operating room during which one or more open heart surgery procedures are performed.

(k) "Open heart surgery service" means a hospital program that is staffed with surgical teams and other support staff for the performance of open heart surgical procedures. An open heart surgery service performs open heart surgery procedures on an emergent, urgent and scheduled basis.

(l) "Pediatric open heart surgery" means open heart surgery offered and provided to infants and children age 14 and younger, and to other individuals with congenital heart disease as defined by the ICD-9-CM codes of 745.0 through 747.99.

(m) "Planning area" means the groups of counties shown in Section 10.

(2) The definitions in Part 222 shall apply to these standards.

Section 3. Requirements for all applicants proposing to initiate open heart surgery services

Sec. 3. (1) An applicant proposing to initiate either adult or pediatric open heart surgery as a new service shall be operating or approved to operate a diagnostic and therapeutic adult or pediatric cardiac catheterization service, respectively.

(2) A hospital proposing to initiate open heart surgery as a new service shall have a written consulting agreement with a hospital which has an existing active open heart surgery service performing a minimum of 400 open heart surgical cases per year for 3 consecutive years. The agreement must specify that the existing service shall, for the first 3 years of operation of the new service, provide the following services to the applicant hospital:

(a) Receive and make recommendations on the proposed design of surgical and support areas that may be required;

(b) Provide staff training recommendations for all personnel associated with the new proposed service;

(c) Provide recommendations on staffing needs for the proposed service; and

(d) Work with the medical staff and governing body to design and implement a process that will annually measure, evaluate, and report to the medical staff and governing body the clinical outcomes of the new service, including: (i) Mortality rates, (ii) Complication rates, (iii) Success rates, and (iv) Infection rates.

(3) An applicant proposing to initiate adult open heart surgery as a new service shall demonstrate 300 adult open heart surgical cases based on the methodology set forth in Section 8.

(4) An applicant proposing to initiate pediatric open heart surgery as a new service shall demonstrate 100 pediatric open heart surgical cases based on the methodology set forth in Section 9.

Section 4. Requirements for approval for applicants proposing to acquire an existing open heart surgery service

Sec. 4. An applicant proposing to acquire a hospital that has been approved to perform open heart surgery services may also acquire the existing open heart surgery service if it can demonstrate that the proposed project meets all of the following:

(1) An application for the first acquisition of an existing open heart surgery service after the effective date of these standards shall not be required to be in compliance with the applicable volume requirements on the date of acquisition. The open heart surgery service shall be operating at the applicable volume requirements set forth in Section 7 of these standards in the second 12 months after the date the service is acquired, and annually thereafter.

(2) Except as provided for in subsection (1), an application for the acquisition of an existing open heart surgery service after the effective date of these standards shall be required to be in compliance with the applicable volume requirements, as set forth in the project delivery requirements, on the date an application is submitted to the Department.

(3) The applicant agrees to operate the open heart surgery service in accordance with all applicable project delivery requirements set forth in Section 7 of these standards.

Section 5. Requirements for all applicants

Sec 5**.** An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services, if a CON is approved.

Section 6. Requirements for MIDB data commitments

Sec. 6. In order to use MIDB data in support of an application for either adult or pediatric open heart surgery services, an applicant shall demonstrate or agree, as applicable, to all of the following:

(1) A hospital(s) whose adult MIDB data is used in support of a CON application for adult open heart surgery services shall not use any of its adult MIDB data in support of any other application for adult open heart surgery services prior to 7 years after the initiation of the open heart surgery service for which MIDB data were used to support. After the 7-year period, a hospital(s) may only commit its adult MIDB data in support of another application for adult open heart surgery services if they have experienced an increase from the previously committed MIDB data. Only that additional increase in MIDB data can be committed to another applicant to initiate open heart surgery services.

(2) A hospital(s) whose pediatric MIDB data is used in support of a CON application for pediatric open heart surgery services shall not use any of its pediatric MIDB data in support of any other application for pediatric open heart surgery services prior to 7 years after the initiation of the open heart surgery service for which MIDB data were used to support. After the 7-year period, a hospital(s) may only commit its pediatric MIDB data in support of another application for pediatric open heart surgery services if they have experienced an increase from the previously committed MIDB data. Only that

additional increase in MIDB data can be committed to another applicant to initiate open heart surgery services.

(3) The hospital(s) committing MIDB data does not currently operate an adult or pediatric open heart surgery service or have a valid CON issued under Part 222 to operate an adult or pediatric open heart surgery service.

(4) The hospital(s) committing MIDB data is located in the same planning area as the hospital to which MIDB data is being proposed to be committed.

(5) The hospital(s) committing MIDB data to a CON application has completed the departmental form(s) which (i) authorizes the Department to verify the MIDB data, (ii) agrees to pay all charges associated with verifying the MIDB data, and (iii) acknowledges and agrees that the commitment of the MIDB data is for the period of time specified in subsection (1) or (2), as applicable.

(6) The hospital(s) committing MIDB data to an application is regularly admitting patients as of the date the Director makes the final decision on that application, under Section 22231 of the Code, being Section 333.22231 of the Michigan Compiled Laws.

Section 7. Project delivery requirements -- terms of approval for all applicants

Sec. 7. (1) An applicant shall agree that if approved, the services shall be delivered in compliance with the following terms of CON approval:

(a) Compliance with these standards.

(b) Compliance with applicable operating standards.

(c) Compliance with the following quality assurance standards:

(i) The open heart surgery service shall be operating at an annual level of 300 adult open heart surgical cases or 100 pediatric open heart surgical cases, as applicable, by the end of the third 12 full months of operation, and annually thereafter.

(ii) Each physician credentialed by the applicant hospital to perform adult open heart surgery cases, as the attending surgeon, shall perform a minimum of 75 adult open heart surgery cases per year. The annual case load for a physician means adult open heart surgery cases performed by that physician, as the attending surgeon, in any hospital or combination of hospitals.

(iii) The service shall be staffed with sufficient medical, nursing, technical and other personnel to permit regular scheduled hours of operation and continuous 24 hour on-call availability.

(iv) The service shall have the capability for rapid mobilization of a cardiac surgical team for emergency cases 24 hours a day, 7 days a week.

(v) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(d) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(i) provide open heart surgery services to all individuals based on the clinical indications of need for the service and not on ability to pay or source of payment; and

(ii) maintain information by source of payment to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(e) The applicant shall prepare and present to the medical staff and governing body reports describing activities in the open heart surgery service including complication rates and other morbidity and mortality data.

(f) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include but is not limited to annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data in a format established by the Department and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(g) The applicant shall participate in a data registry administered by the Department or its designee that monitors quality and risk adjusted outcomes. The Department or its designee shall require that the applicant submit a summary report as specified by the Department. The applicant shall provide the required data in a format established by the Department or its designee. The applicant shall be liable for the cost of data submission and on-site reviews in order for the Department to verify and monitor volumes and assure quality. The applicant shall become a member of the data registry specified by the Department upon initiation of the service. Participation shall continue annually thereafter. The outcomes database must undergo statewide auditing.

(h) An applicant that fails to comply with the quality assurance standards under subsection (c) shall be required to provide its quality and risk adjusted outcomes data from the data registry to the Department, or its designee, as part of the Department's enforcement and compliance activities.

(i) The applicant shall provide the Department with a notice stating the date on which the first approved service is performed and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(2) The agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 8. Methodology for computing the number of adult open heart surgical cases

Sec. 8. (1) The weights for the adult principal and non-principal diagnoses tables found in Appendix A are calculated using the following methodology. For these two tables, only the MIDB data from licensed hospitals that have operational open heart surgery programs in Michigan will be used. Using a hospital's actual inpatient discharge data, as specified by the most recent MIDB data available to the Department, an applicant shall identify the discharges that were from patients aged 15 years and older. These discharges shall be known as the "adult discharges."

(a) To calculate the weights for the principal diagnosis, the following steps shall be taken:

(i) For each diagnostic group in the principal weight table, the number of discharges is counted.

(ii) For the discharges identified in subsection 8(1)(a)(i), any occurrence of an open heart procedure code will be counted as a single open heart surgery case.

(iii) The number of open heart surgery cases for each diagnosis category will be divided by the number of discharges identified in subsection 8(1)(a)(i). This will be the weight for that diagnostic group. This number should show six decimal positions.

(iv) All discharges utilized for the computation of the principal weight table are to be removed from subsequent analyses.

(b) To calculate the weights for the non-principal diagnosis table, the following steps shall be taken, separately, in the sequence shown, and each remaining discharge will be examined for any mention of

the diagnostic codes from that group. If a match is found, that discharge is assigned to that diagnostic group and removed from subsequent analyses:

(i) For each diagnostic group taken separately, in the sequence shown, any occurrence of an open heart procedure code for each discharge will be counted as a single open heart surgery case. If a match is found, the discharge will be counted as an open heart surgical case for that diagnostic group and removed from subsequent analyses.

(ii) The number of open heart surgery cases for each non-principal diagnosis category identified in subsection 8(1)(b)(i) will be divided by the number of discharges identified in subsection 8(1)(b). This will result in the non-principal weight for that diagnostic group. This number should show six decimal positions.

(2) An applicant shall apply the methodology set forth in this section for computing the projected number of adult open heart surgical cases using both the principal and non-principal diagnosis tables. The following steps shall be taken in sequence:

(a) For each diagnostic group in the principal weight table in Appendix A, identify the corresponding number of discharges.

(b) Multiply the number of discharges for each diagnostic group by their respective group weight to obtain the projected number of open heart surgery cases for that group. All discharges identified in subsection 8(2)(a) are removed from subsequent analysis.

(c) The non-principal weight table identifies the sequence that must be followed to count the discharges for the appropriate group. An applicant shall start with the first diagnostic group and shall count the number of discharges with any mention of a non-principal diagnosis corresponding to that specific diagnostic group. When a discharge that belongs in the specific non-principal diagnostic group is identified, it is assigned to that group. This discharge is then removed from the data before counting discharges for the next diagnostic group. The discharges counted for each group will be used only with the non-principal diagnosis weight table in Appendix A and will be entered into its respective diagnostic group. Multiply the number of discharges for each diagnostic group by their respective group weight to obtain the projected number of open heart surgery cases for that group.

(d) The total number of projected open heart cases is then calculated by summing the projected number of open heart cases from both principal and non-principal weight tables.

(3) The major ICD-9-CM groupings and Open Heart utilization weights in Appendix A are based on the work of the Bureau of Health Policy, Planning and Access, Michigan Department of Community Health, utilizing the most current MIDB data available to the Department.

(a) The Department shall update the open heart utilization weights every 3 years, beginning with the year 2007, according to the methodology described in subsection (1) above, utilizing the most current MIDB data available to the Department.

(b) Updates to the utilization weights made pursuant to this subsection shall not require standard advisory committee action, a public hearing, or submittal of the standard to the legislature and governor in order to become effective.

(c) The Department shall notify the Commission when the updates are made and the effective date of the updated utilization weights.

(d) The updated open heart utilization weights established pursuant to this subsection shall supercede the weights shown in Appendix A and shall be included as an amended appendix to these standards.

(4) Each applicant shall provide access to verifiable hospital-specific data and documentation using a format established by the Department and a mutually agreed upon media.

Section 9. Methodology for computing the number of pediatric open heart surgical cases

Sec. 9. (1) The weights for the pediatric diagnosis table found in Appendix B are calculated using the following methodology. Only the MIDB data from licensed hospitals in Michigan will be used.

(a) Using a hospital's actual inpatient discharge data, as specified by the most recent MIDB data available to the Department, an applicant shall count the discharges that were from patients of any age that have a diagnosis (any mention) of the ICD-9-CM codes listed in the "Congenital Anomalies" category in Appendix B. Each identified record shall be counted only once so that no record is counted twice. An applicant shall remove these cases from subsequent analyses.

(b) For those discharges identified in subsection 9(1)(a), any occurrence of an open heart procedure code will be counted as a single open heart surgery case.

(c) The number of open heart surgery cases for the "Congenital Anomalies" category will be divided by the number of discharges identified in subsection 9(1)(a). This will be the weight for the "Congenital Anomalies" diagnostic group. This number should show six decimal positions.

(d) Using a hospital's remaining inpatient discharges, an applicant shall identify the discharges that were from patients aged 14 years and younger. These discharges shall be known as the "pediatric discharges."

(e) Using the "pediatric discharges" identified in subdivision (d), an applicant shall count the number of discharges that have a diagnosis (any mention) of the ICD-9-CM codes listed in the "All Other Heart Conditions" category in Appendix B. Discharge records which do not have one or more of the “All Other Heart Conditions” codes listed in Appendix B shall not be used. Each identified record shall be counted only once so that no record is counted twice.

(f) For those discharges identified in subsection 9(1)(e), any occurrence of an open heart procedure code will be counted as a single open heart surgery case.

(g) The number of open heart surgery cases for the "All Other Heart Conditions" category will be divided by the number of discharges identified in subsection 9(1)(e). This will be the weight for the "All Other Heart Conditions" diagnostic group. This number should show six decimal positions.

(2) An applicant shall apply the methodology set forth in this section for computing the projected number of pediatric open heart surgical cases. In applying discharge data in the methodology, each applicable inpatient record is used only once. This methodology shall utilize only those inpatient discharges that have one or more of the cardiac diagnoses listed in Appendix B. In applying this methodology, the following steps shall be taken in sequence:

(a) Using a hospital's actual inpatient discharge data, as specified by the most recent MIDB data available to the Department, an applicant shall count the discharges that were from patients of any age that have a principal diagnosis or any of the first four non-principal diagnoses of the ICD-9-CM codes listed in the "Congenital Anomalies" category in Appendix B. Each identified record shall be counted only once so that no record is counted twice. An applicant shall remove these cases from the discharge data.

(b) Using a hospital's remaining inpatient discharges, an applicant shall identify the discharges that were from patients aged 14 years and younger. These discharges shall be known as the "pediatric discharges."

(c) Using the "pediatric discharges" identified in Subdivision (b), an applicant shall count the number of discharges with a principal diagnosis or any of the first four non-principal diagnoses of the ICD-9-CM codes listed in the "All Other Heart Conditions" category in Appendix B. Discharge records

which do not have one or more of the “All Other Heart Conditions” codes listed in Appendix B shall not be used. Each identified record shall be counted only once so that no record is counted twice.

(d) An applicant shall multiply the count for the "Congenital" and "All Other Heart Conditions" categories by the corresponding Pediatric Open Heart Utilization Weight and add the products together to produce the number of pediatric open heart surgical cases for the applicant.

(3) The major ICD-9-CM groupings and Pediatric Open Heart Utilization Weights in Appendix B are based on the work of the Bureau of Health Policy, Planning and Access, Michigan Department of Community Health, utilizing the most current MIDB data available to the Department.

(a) The Department shall update the open heart utilization weights every 3 years, beginning with the year 2007, according to the methodology described in subsection (1) above, utilizing the most current MIDB data available to the Department.

(b) Updates to the utilization weights made pursuant to this subsection shall not require standard advisory committee action, a public hearing, or submittal of the standard to the legislature and governor in order to become effective.

(c) The Department shall notify the Commission when the updates are made and the effective date of the updated utilization weights.

(d) The updated open heart utilization weights established pursuant to this subsection shall supercede the weights shown in Appendix B and shall be included as an amended appendix to these standards.

(4) Each applicant must provide access to verifiable hospital-specific data and documentation using a format established by the Department and in a mutually agreed upon media.

Section 10. Planning Areas

Sec. 10. Counties assigned to each planning area are as follows:

PLANNING AREA	COUNTIES		
1	LIVINGSTON	MONROE	ST. CLAIR
	MACOMB	OAKLAND	WASHTENAW
	WAYNE		
2	CLINTON	HILLSDALE	JACKSON
	EATON	INGHAM	LENAWEE
3	BARRY	CALHOUN	ST. JOSEPH
	BERRIEN	CASS	VAN BUREN
	BRANCH	KALAMAZOO	
4	ALLEGAN	MASON	NEWAYGO
	IONIA	MECOSTA	OCEANA
	KENT	MONTCALM	OSCEOLA
	LAKE	MUSKEGON	OTTAWA
5	GENESEE	LAPEER	SHIAWASSEE

6	ARENAC	HURON	ROSCOMMON
	BAY	IOSCO	SAGINAW
	CLARE	ISABELLA	SANILAC
	GLADWIN	MIDLAND	TUSCOLA
	GRATIOT	OGEMAW	
7	ALCONA	CRAWFORD	MISSAUKEE
	ALPENA	EMMET	MONTMORENCY
	ANTRIM	GD TRAVERSE	OSCODA
	BENZIE	KALKASKA	OTSEGO
	CHARLEVOIX	LEELANAU	PRESQUE ISLE
	CHEBOYGAN	MANISTEE	WEXFORD
8	ALGER	GOGEBIC	MACKINAC
	BARAGA	HOUGHTON	MARQUETTE
	CHIPPEWA	IRON	MENOMINEE
	DELTA	KEWEENAW	ONTONAGON
	DICKINSON	LUCE	SCHOOLCRAFT

Section 11. Effect on prior planning policies; comparative reviews

Sec. 11. (1) These CON Review Standards supersede and replace the CON Review Standards for Open Heart Surgery Services approved by the CON Commission on March 9, 2004 and effective on June 4, 2004.

(2) Projects reviewed under these standards shall not be subject to comparative review.

Appendix A

DIAGNOSIS GROUPINGS FOR ADULT OPEN HEART SURGICAL CASES
PRINCIPAL DIAGNOSIS

GROUP	MAJOR ICD-9-CM CODE GROUP	CATEGORY	ADULT OPEN HEART UTILIZATION WEIGHTS
A	394 – 397.9 421 – 421.9 424 – 424.99	Valves	.755521
B	441.01, 441.03 441.1, 441.2 441.6, 441.7	Aortic Aneurysm	.474638
C	745 – 747.99	Congenital Anomalies	.304878

D	414 – 414.99	Other Chronic Ischemic	.175495
E	410 – 410.99	Acute Myocardial Infarct	.119218
F	212.7 398 – 398.99 411 – 411.99 423 – 423.9 425 – 425.9 427 – 427.9 428 – 428.9 901 – 901.9 996.02, 996.03	All Other Heart Conditions	.013789

NON-PRINCIPAL DIAGNOSES

GROUP	MAJOR ICD-9-CM CODE GROUP	CATEGORY	ADULT OPEN HEART UTILIZATION WEIGHTS
A	745 – 747.99	Congenital Anomalies	.021698
B	441.01, 441.03 441.1, 441.2 441.6, 441.7	Aortic Aneurysm	.020900
C	410 – 410.99	Acute Myocardial Infarct	.014470
D	394 – 397.9 421 – 421.9 424 – 424.99	Valves	.008064
E	414 – 414.99	Other Chronic Ischemic	.001879
F	212.7 398 – 398.99 411 – 411.99 423 – 423.9 425 – 425.9 427 – 427.9 428 – 428.9 901 – 901.9 996.02, 996.03	All Other Heart Conditions	.001190

Source: Calculated based on the 2005 Michigan Inpatient Data Base

Appendix B

DIAGNOSIS GROUPINGS FOR PEDIATRIC OPEN HEART SURGICAL CASES

MAJOR ICD-9-CM CODE GROUP	CATEGORY	PEDIATRIC OPEN HEART UTILIZATION WEIGHTS
745.0 – 747.99	Congenital Anomalies	.174027
164.1, 212.7 390 – 429.99 441.01, 441.03 441.1, 441.2 441.6, 441.7 785.51 786.5-786.59 901.0 – 901.9 996.02	All Other Heart Conditions	.018182

Source: Calculated based on the 2005 Michigan Inpatient Data Base

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR CARDIAC CATHETERIZATION SERVICES

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for approval and delivery of services for all projects approved and Certificates of Need issued under Part 222 of the Code which involve cardiac catheterization services.

(2) Cardiac catheterization services are covered clinical services for purposes of Part 222 of the Code.

(3) The Department shall use sections 3, 4, 5, 6, 7, 8, 9, 10, 11 and 14 as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use Section 12 and 13 in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(5) The Department shall use Section 3(2), in applying Section 22215(1)(b) of the Code, being Section 333.22215(1)(b) of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) "Balloon atrial septostomy" means a procedure in which a balloon-tipped catheter is placed across the atrial septum and withdrawn to create an enlarged atrial opening.

(b) "Cardiac catheterization laboratory" or "laboratory" means an individual radiological room equipped with a variety of x-ray machines and devices such as electronic image intensifiers, high speed film changers and digital subtraction units to assist in performing diagnostic or therapeutic cardiac catheterizations or electrophysiology studies.

(c) "Cardiac catheterization procedure" means any cardiac procedure, including diagnostic, therapeutic, and electrophysiology studies, as applicable, performed on a patient during a single session in a cardiac catheterization laboratory. Cardiac catheterization is a medical diagnostic or therapeutic procedure during which a catheter is inserted into a vein or artery in a patient; subsequently the free end of the catheter is manipulated by a physician to travel along the course of the blood vessel into the chambers or vessels of the heart. X-rays and an electronic image intensifier are used as aides in placing

the catheter tip in the desired position. When the catheter is in place, the physician is able to perform various diagnostic studies and/or therapeutic procedures in the heart. Cardiac catheterization shall not include "float catheters" which are performed at the bedside or in settings outside the cardiac catheterization laboratory.

(d) "Cardiac catheterization service" means the provision of one or more of the following types of procedures in compliance with Part 222 of the Code: adult diagnostic cardiac catheterizations; pediatric diagnostic cardiac catheterizations; adult therapeutic cardiac catheterizations; and pediatric therapeutic cardiac catheterizations.

(e) "Central service coordinator" means the organizational entity that has operational responsibility for a mobile cardiac catheterization network. It shall be a legal entity authorized to do business in Michigan.

(f) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(g) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(h) "Department" means the Michigan Department of Community Health (MDCH).

(i) "Diagnostic cardiac catheterization service" means providing diagnostic-only cardiac catheterizations on an organized, regular basis, in a laboratory. The term includes, but is not limited to: the intra coronary administration of drugs; left heart catheterization; right heart catheterization; coronary angiography; diagnostic electrophysiology studies; and cardiac biopsies (echo-guided or fluoroscopic). For purposes of these standards, the term also includes balloon atrial septostomy procedure in a hospital that provides pediatric diagnostic cardiac catheterization services. This term also includes cardiac permanent pacemaker/ICD device implantations in a hospital that does not provide therapeutic cardiac catheterization services.

(j) "Electrophysiology study" means a study of the electrical conduction activity of the heart and characterization of atrial and ventricular arrhythmias, obtained by means of a cardiac catheterization procedure. The term also includes the implantation of permanent pacemakers and defibrillators.

(k) "Expand a cardiac catheterization service" means either:

(i) an increase in the number of cardiac catheterization laboratories at a hospital; or

(ii) expanding the types of cardiac catheterization procedures authorized to be performed including adult or pediatric, diagnostic or therapeutic, at a hospital that currently performs cardiac catheterization procedures.

(l) "Hospital" means a health facility licensed under Part 215 of the Code.

(m) "Host facility" means a hospital at which a mobile cardiac catheterization network is authorized to provide cardiac catheterization services.

(n) "ICD-9-CM code" means the disease codes and nomenclature found in the International Classification of Diseases - 9th Revision - Clinical Modification, prepared by the Commission on Professional and Hospital Activities for the U.S. National Center for Health Statistics.

(o) "Initiate a cardiac catheterization service" means to begin performing cardiac catheterization procedures at a hospital that does not perform cardiac catheterization procedures as of the date an application is submitted to the Department.

(p) " Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and1396r-8 to 1396v.

(q) "Metropolitan statistical area county" means a county located in a metropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix A.

(r) "Micropolitan statistical area county" means a county located in a micropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix A.

(s) "Mobile cardiac catheterization network" means the provision of adult diagnostic-only cardiac catheterization services by a central service coordinator and two or more host hospitals.

(t) "On-site open heart surgery services" means a facility that does have a CON to perform open heart surgery services and does perform open heart surgery services in the existing hospital.

(u) "Pediatric cardiac catheterization service" means the offering and provision of cardiac catheterization services on an organized, regular basis to infants and children ages 18 and below, except for electrophysiology studies which are offered and provided to infants and children ages 14 and below, and others with congenital heart disease as defined by the ICD-9-CM codes of 426.7, 427.0, and 745.0 through 747.99.

(v) "Primary percutaneous coronary intervention (PCI)" means a PCI performed within 120 minutes for emergency acute myocardial infarction (AMI) patients seen in the emergency room (ER) with confirmed ST elevation or new left bundle branch block.

(w) "Procedure equivalent" means a unit of measure that reflects the relative average length of time one patient spends in one session in a cardiac catheterization laboratory based on the type of procedures being performed.

(x) "Replace/upgrade" means any equipment change that involves a capital expenditure of $500,000 or more in any consecutive 24-month period which results in the applicant operating the same number of cardiac catheterization laboratories before and after project completion.

(y) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix A.

(z) "Therapeutic cardiac catheterization service" means providing therapeutic cardiac catheterizations on an organized, regular basis in a laboratory to treat and resolve anatomical and/or physiological problems in the heart. The term includes, but is not limited to: percutaneous coronary intervention (PCI), percutaneous transluminal coronary angioplasty (PTCA), atherectomy, stent, laser, cardiac valvuloplasty, balloon atrial septostomy, or catheter ablation and cardiac permanent pacemaker/ICD device implantations. The term does not include the intra coronary administration of drugs where that is the only therapeutic intervention.

(2) Terms defined in the Code have the same meanings when used in these standards.

Section 3. Requirements for approval -- all applicants

Sec. 3. (1) Cardiac catheterization procedures shall be performed in a cardiac catheterization laboratory located within a hospital, and have within, or immediately available to the room, dedicated emergency equipment to manage cardiovascular emergencies.

(2) An applicant shall provide verification of Medicaid participation at the time the application is submitted to the Department. An applicant that is initiating a new service or is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved.

Section 4. Requirements for approval -- applicants proposing to initiate an adult diagnostic cardiac catheterization service

Sec. 4. (1) An applicant proposing to initiate an adult diagnostic cardiac catheterization service shall project a minimum of 300 procedure equivalents in the category of adult diagnostic cardiac catheterization will be performed in the second 12 months of operation after initiation of the adult diagnostic cardiac catheterization service, and annually thereafter.

(2) An applicant proposing to initiate an adult diagnostic cardiac catheterization service in a new single laboratory shall project the following volume of procedure equivalents, as applicable, will be performed in the second 12 months of operation after initiation of the service, and annually thereafter:

(a) For a hospital located in a rural or micropolitan statistical area county, a minimum of 500 procedure equivalents which shall include the 300 procedure equivalents in the category of adult diagnostic cardiac catheterization required under subsection (1).

(b) For a hospital located in a metropolitan statistical area county, a minimum of 750 procedure equivalents which shall include the 300 procedure equivalents in the category of adult diagnostic cardiac catheterization required under subsection (1).

(3) An applicant proposing to initiate an adult diagnostic cardiac catheterization service in 2 or more laboratories shall project that a minimum of 1,000 procedure equivalents per laboratory will be performed in the second 12 months of operation after initiation of the service, and annually thereafter. The projected volume shall include the procedure equivalents required by subsection (1).

SECTION 5. REQUIREMENTS FOR APPROVAL -- APPLICANTS PROPOSING TO INITIATE AN ADULT DIAGNOSTIC CARDIAC CATHETERIZATION SERVICE WITH PROVISION TO PERFORM PRIMARY PCI FOR PATIENTS EXPERIENCING ami (st ELEVATION OR NEW LEFT BUNDLE BRANCH BLOCK) WITHOUT ON-SITE OPEN HEART SURGERY SERVICES

Sec. 5. (1) An applicant proposing to initiate primary PCI service without on-site open heart surgery services shall submit documentation demonstrating all of the following:

(a) The applicant's adult diagnostic cardiac catheterization service performed a minimum of 400 diagnostic procedures (excluding diagnostic electrophysiology studies and right heart catheterizations) during the most recent 12 months preceding the date the application was submitted to the Department. Mobile cardiac catheterization laboratories are not eligible to apply under Section 5.

(b) The interventional cardiologists (at least two) to perform the primary PCI are experienced interventionalists who have each performed at least 75 interventions annually as the primary operator at an open heart surgery facility during the most recent 24 months preceding the date the application was submitted to the Department, and annually thereafter.

(c) The nursing and technical catheterization laboratory staff: are experienced in handling acutely ill patients and comfortable with interventional equipment; have acquired experience in dedicated interventional laboratories at an open heart surgery facility; and participate in an un-interrupted 24-hour, 365-day call schedule. Competency should be documented annually.

(d) The catheterization laboratory is well-equipped, with optimal imaging systems, resuscitative equipment, intra-aortic balloon pump (IABP) support, and must be well-stocked with a broad array of interventional equipment.

(e) The cardiac care unit nurses are adept in hemodynamic monitoring and IABP management. Competency should be documented annually.

(f) A written agreement with an open heart surgery facility that includes:

(i) Involvement in credentialing criteria and recommendations for physicians approved to perform primary PCI;

(ii) Provision for ongoing cross-training for professional and technical staff involved in the provision of primary PCI to ensure familiarity with interventional equipment; and competency should be documented annually;

(iii) Provision for ongoing cross training for Emergency Department, Catheterization Laboratory and Critical Care Unit staff to ensure experience in handling the high acuity status of primary PCI patient candidates and competency should be documented annually;

(iv) Regularly held joint cardiology/cardiac surgery conferences to include review of all primary PCI cases;

(v) Development and ongoing review of patient selection criteria for primary PCI patients and implementation of those criteria;

(vi) A mechanism to provide for appropriate patient transfers between facilities and an agreed plan for prompt care;

(vii) Written protocols, signed by the applicant and the open heart surgery facility, must be in place, with provisions for the implementation for immediate and efficient transfer (within 1 hour from cardiac catheterization laboratory to evaluation on site in the open heart surgical facility) of patients requiring surgical evaluation and/or intervention 365 days a year, the protocols shall be reviewed/tested on a regular (quarterly) basis; and

(viii) Consultation on facilities, equipment, staffing, ancillary services, and policies and procedures for the provision of interventional procedures.

(g) A written protocol must be established and maintained for case selection for the performance of primary PCI that is consistent with current practice guidelines set forth by the American College of Cardiology and the American Heart Association.

(h) A system to ensure prompt and efficient identification of potential primary PCI patients and rapid transfer from the Emergency Department to the Catheterization Laboratory must be developed and maintained so that door-to-balloon targets are met.

(i) Because primary PCI must be available to emergency patients 24 hours per day, 365 days a year, at least two physicians credentialed to perform primary PCI must commit to functioning as a coordinated group willing and able to provide this service at the hospital on a 24-hour per day, 365 day per year call schedule, with ability to be on-site and available to operate within 30 minutes of identifying the need for primary PCI. These physicians must be credentialed at the facility and actively collaborate with administrative and clinical staff in establishing and implementing protocols, call schedules, and quality assurance procedures pertaining to primary PCI designed to meet the requirements for this certification and in keeping with the current guidelines for the provision of primary PCI promulgated by the American College of Cardiology and American Heart Association.

(2) An applicant shall project a minimum of 48 primary PCI procedures will be performed in the second 12 months of operation after initiation of service, and annually thereafter. Primary PCI volume shall be projected by documenting, as outlined in Section 13, and certifying that the applicant treated or transferred enough ST segment elevation AMI cases during the most recent 12 months preceding the date the application was submitted to the Department to maintain 48 primary PCI cases annually. Factors that may be considered in projecting primary PCI volume are the number of thrombolytic eligible patients per year seen in the Emergency Department (as documented through hospital pharmacy records showing the number of doses of thrombolytic therapy ordered for AMI in the Emergency

Department) and/or documentation of emergency transfers to an open heart surgery facility for primary PCI.

Section 6. Requirements for approval -- applicants proposing to initiate a pediatric cardiac catheterization service

Sec. 6. (1) An applicant proposing to initiate a pediatric cardiac catheterization service at a hospital that will perform cardiac catheterization procedures is required to have each of the following as outlined in the American Academy of Pediatrics (AAP), Guidelines for Pediatric Cardiovascular Centers (March 2002):

(a) a board certified pediatric cardiologist with training in pediatric catheterization procedures to direct the pediatric catheterization laboratory;

(b) standardized equipment as outlined in AAP guidelines publication;

(c) on-site ICU as outlined in AAP guidelines publication; and

(d) on-site pediatric open heart surgery.

(2) An applicant proposing to initiate a pediatric cardiac catheterization service at a hospital that currently performs cardiac catheterization procedures shall project that a minimum of 600 procedure equivalents in the category of pediatric cardiac catheterizations will be performed in the second 12 months of operation after initiation of the pediatric cardiac catheterization service, and annually thereafter.

Section 7. Requirements for approval -- applicants proposing to initiate an adult therapeutic cardiac catheterization service

Sec. 7. (1) An applicant proposing to perform therapeutic cardiac catheterization procedures shall demonstrate both of the following:

(a) An applicant provides or has CON approval to provide an adult diagnostic cardiac catheterization service.

(b) An applicant provides or has CON approval to provide an adult open heart surgery service within the hospital in which the therapeutic cardiac catheterizations are to be performed.

(c) Subsections (a) and (b) do not preclude an applicant from simultaneously applying for a diagnostic and therapeutic cardiac catheterization service and an open heart surgery service.

(2) An applicant proposing to perform therapeutic cardiac catheterization procedures shall project the following volume of procedure equivalents, as applicable, will be performed in the second 12 months of operation after initiation of the service, and annually thereafter:

(a) A minimum of 300 procedure equivalents in the category of adult therapeutic cardiac catheterizations.

Section 8. Requirements for approval -- applicants proposing to replace/upgrade cardiac catheterization laboratories

Sec. 8. (1) An applicant, other than a hospital that provides only pediatric cardiac catheterization services, proposing to replace/upgrade its only laboratory, shall demonstrate that it meets each of the following, as applicable:

(a) For a hospital located in a rural county:

(i) A minimum of 500 procedures equivalents were performed in the applicant's cardiac catheterization laboratory during the most recent 12 months of normal operation preceding the date the application was submitted to the Department; and

(ii) A minimum of 500 procedure equivalents will be performed in the applicant's cardiac catheterization laboratory in the first 12 months of operation after installation of the new equipment, and annually thereafter.

(b) For a hospital located in a non-rural county:

(i) A minimum of 750 procedure equivalents was performed in the applicant's cardiac catheterization laboratory during the most recent 12 months of normal operation preceding the date the application was submitted to the Department; and

(ii) A minimum of 750 procedure equivalents will be performed in the applicant's cardiac catheterization laboratory in the first 12 months of operation after installation of the new equipment, and annually thereafter.

(2) If an applicant is a hospital that provides only pediatric cardiac catheterization services proposes to replace/upgrade an existing cardiac catheterization laboratory, an applicant shall demonstrate that it meets each of the following:

(a) A minimum of 500 procedure equivalents was performed in the applicant's cardiac catheterization laboratory in the most recent 12 months of normal operation preceding the date the application was submitted to the Department; and

(b) A minimum of 500 procedure equivalents will be performed in the applicant's cardiac catheterization laboratory in the first 12 months of operation after installation of the new equipment, and annually thereafter.

(3) An applicant with 2 or more laboratories proposing to replace/upgrade any of its laboratories shall demonstrate that it meets each of the following, as applicable:

(a) An average of 1,000 procedure equivalents per room was performed in each existing cardiac catheterization laboratory in the hospital during the most recent 12 months of operation preceding the date the application was submitted to the Department, and

(b) A minimum of 1,000 procedure equivalents will be performed in each cardiac catheterization laboratory in the first 12 months of operation after installation of the new equipment, and annually thereafter.

(4) An applicant proposing to replace equipment shall demonstrate that the existing equipment to be replaced is fully depreciated according to generally accepted accounting principles, or can clearly demonstrate that the existing equipment poses a threat to the safety of the public, or offers significant technological improvements which enhance quality of care, increases efficiency, and/or reduces operating costs.

(5) If an application involves the replacement/upgrade of equipment used by a mobile cardiac catheterization network, an applicant shall demonstrate both of the following:

(a) At least 500 procedure equivalents were performed in the most recent 12 months of normal operation preceding the date the application was submitted to the Department; and

(b) A minimum of 500 procedure equivalents will be performed in the first 12 months of operation after installation of the new equipment, and annually thereafter.

(c) In evaluating compliance with subsections (a) and (b), the Department shall consider the combined utilization for all approved host facilities.

(6) In demonstrating compliance with the minimum volume requirements set forth in each applicable subsection of this section, an applicant shall demonstrate that the minimum volume requirement applicable to the specific type of cardiac catheterization procedures offered by an applicant (adult, pediatric, diagnostic or therapeutic) as set forth in Section 4(1), 6(2) or 7(2)(a), as applicable, have also been met.

Section 9. Requirements for approval -- applicants proposing to expand a cardiac catheterization service by adding a laboratory

Sec. 9 An applicant proposing to add a laboratory to an existing cardiac catheterization service shall demonstrate both of the following:

(1) An average of 1,500 procedure equivalents per room per year was performed in each existing cardiac catheterization laboratory in the hospital during the most recent 12-month period preceding the date the application was submitted to the Department.

(2) An average of 1,000 procedure equivalents will be performed in each cardiac catheterization laboratory (both existing and proposed) in the second 12 months of operation after initiating operation of the additional room, and annually thereafter.

Section 10. Requirements for approval -- applicants for a mobile cardiac catheterization network

Sec. 10. An application involving a mobile cardiac catheterization network shall demonstrate that it meets each of the following, as applicable:

(1) An application will not result in an increase in the number of mobile cardiac catheterization networks with valid CON approval as of the effective date of these standards.

(2) An application will not result in an increase in the number of host facilities being served by a mobile cardiac catheterization network from the number of host facilities authorized to be served by that same network as of the effective date of these standards.

(3) An application does not involve the initiation of a mobile cardiac catheterization network not authorized by a valid CON as of the effective date of these standards.

(4) An application involving the provision of mobile cardiac catheterization services shall demonstrate that cardiac catheterization procedures will be performed within a hospital. The Department shall consider procedures performed in a mobile cardiac catheterization unit as within a hospital if the mobile unit is or will be physically adjoined to the hospital by means of a connector such that patients will not be transported outside the hospital in order to receive cardiac catheterization services.

Section 11. Methodology for computing cardiac catheterization equivalents – procedures and weights

Sec..11. (1) The following procedure equivalents shall be used in calculating and evaluating utilization of a cardiac catheterization laboratory:

PROCEDURE TYPE	PROCEDURE	
	Adult	**Pediatric**
Diagnostic cardiac catheterization	1.0	3.0
Therapeutic cardiac catheterization	1.5	3.0
Therapeutic,other (PFO/ASD/Valvuloplasty,LVAD)	2.5	3.5
Diagnostic, peripheral[1]	1.0	2.0
Therapeutic, peripheral – Carotid, Subclavian, Renal, Iliac, Mesenteric	1.5	2.5
Therapeutic, peripheral – Superficial Femoral Artery	2.5	2.5
Therapeutic, peripheral – Infrapopliteal	3.0	3.0
Therapeutic, peripheral – Aorta	4.0	4.0
Diagnostic, electro physiology (EP)	2.0	3.5
Therapeutic, EP – Permanent Pacemaker, ICD	2.5	5.0
Therapeutic, EP – Ablation Non-AF	3.0	5.0
Therapeutic, EP – Ablation AF or VT	4.0	6.0
Therapeutic, EP – Cardioversion	1.0	1.0
Other procedures (IVC Filter, Temporary Venous Pacemaker, IABP, other radiological procedures)	1.0	2.0
Multiple procedures within the same session (diagnostic and/or therapeutic)	The sum of procedure weights minus 0.5 for each procedure after the first procedure	The sum of procedure weights minus 0.5 for each procedure after the first procedure
[1] Excludes selective common femoral angiography when performed as part of a diagnostic or therapeutic cardiac catheterization for a possible closure device.		

(2) For purposes of evaluating whether an applicant meets applicable volume requirements set forth in these standards, cardiac catheterization procedures per laboratory must be met exclusive of the intra-vascular catheterization procedures when considering expansion or replace/upgrade. The peripheral non-cardiac procedures shall count toward the total volume requirements for procedures, but the minimum volumes remain the same for initiation of cardiac catheterization services.

(a) Intra-vascular catheterization is a medical diagnostic or therapeutic procedure during which a catheter is inserted into an artery in a patient. Subsequently, the free end of the catheter is manipulated

by a physician to travel along the course of a non-coronary artery. X-rays and an electronic image intensifier are used as aids in placing the catheter tip into the desired position. When the catheter is in place, the physician is able to perform various diagnostic studies and/or therapeutic procedures in the artery. Intra-vascular catheterization shall not include "float catheters" or "hemodynamic monitoring catheters" which are performed, and/or are used at the bedside for the purposes of monitoring or administering hemodynamic medication.

Section 12. Project delivery requirements – terms of approval for all applicants

Sec. 12. (1) An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(a) Compliance with these standards.

(b) Compliance with applicable operating standards.

(c) Compliance with the following quality assurance standards:

(i) The approved services shall be operating at the applicable required volumes within the time periods specified in these standards, and annually thereafter.

(ii) The approved services shall be staffed with sufficient medical, nursing, technical and other personnel to permit regular scheduled hours of operation and continuous 24-hour on-call availability.

(iii) The medical staff and governing body shall receive and review at least annual reports describing the activities of the cardiac catheterization service including: complication rates (including emergency surgical procedures); morbidity and mortality data; success rates and the number of procedures performed.

(iv) Each physician credentialed by a hospital to perform adult therapeutic cardiac catheterization procedures shall perform, as the primary operator, a minimum of 75 adult therapeutic cardiac catheterization procedures per year in the second 12 months after being credentialed to perform procedures at the applicant hospital, and annually thereafter. The annual case load for a physician means adult therapeutic cardiac catheterization procedures performed by that physician in any hospital or in any combination of hospitals. The applicant shall be responsible for reporting to the Department, on an annual basis, the name and the number of adult therapeutic cardiac catheterization procedures performed by each physician credentialed to perform adult therapeutic cardiac catheterization procedures.

(v) Each physician credentialed by a hospital to perform pediatric diagnostic cardiac catheterizations shall perform, as the primary operator, a minimum of 50 pediatric diagnostic cardiac catheterization procedures per year in the second 12 months after being credentialed to perform procedures at the applicant hospital, and annually thereafter. The annual case load for a physician means pediatric diagnostic cardiac catheterization procedures performed by that physician in any hospital or in any combination of hospitals. The applicant shall be responsible for reporting to the Department, on an annual basis, the name and the number of pediatric diagnostic cardiac catheterization procedures performed by each physician credentialed to perform pediatric diagnostic cardiac catheterization procedures.

(vi) Each physician credentialed by a hospital to perform pediatric therapeutic cardiac catheterizations shall perform, as a primary operator, a minimum of 25 pediatric therapeutic cardiac catheterizations per year in the second 12 months after being credentialed to perform procedures at the applicant hospital, and annually thereafter. The annual case load for a physician means pediatric therapeutic cardiac catheterization procedures performed by that physician in any hospital or in any combination of hospitals. The applicant shall be responsible for reporting to the Department, on an annual basis, the name and the number of pediatric therapeutic cardiac catheterization procedures

performed by each physician credentialed to perform pediatric therapeutic cardiac catheterization procedures.

(vii) For purposes of evaluating subdivisions (v) or (vi), a diagnostic cardiac catheterization followed by a therapeutic cardiac catheterization (including electrophysiology studies) in the same session shall be considered both 1 diagnostic procedure and 1 therapeutic procedure. Two physicians, one credentialed to perform diagnostic cardiac catheterizations and one credentialed to perform therapeutic cardiac catheterizations, each may be considered to have performed either 1 diagnostic or 1 therapeutic catheterization if both were involved in performing a diagnostic cardiac catheterization procedure followed by a therapeutic procedure in the same session.

(viii) An applicant proposing to offer an adult diagnostic cardiac catheterization service shall have a minimum of two (2) appropriately trained physicians on its active hospital staff. For purposes of evaluating this subsection, the Department shall consider it prima facie evidence of appropriate training if the staff physicians:

(A) are trained consistent with the recommendations of the American College of Cardiology;

(B) are credentialed by the hospital to perform adult diagnostic cardiac catheterizations; and

(C) have each performed a minimum of 100 adult diagnostic cardiac catheterizations in the preceding 12 months.

However, the applicant may submit and the Department may accept other evidence that the staff physicians performing adult diagnostic cardiac catheterizations are appropriately trained.

(ix) An applicant proposing to offer an adult therapeutic cardiac catheterization service shall have a minimum of two (2) appropriately trained physicians on its active hospital staff. For purposes of evaluating this subsection, the Department shall consider it prima facie evidence of appropriate training if the staff physicians:

(A) are trained consistent with the recommendations of the American College of Cardiology;

(B) are credentialed by the hospital to perform adult therapeutic cardiac catheterizations; and

(C) have each performed a minimum of 75 adult therapeutic cardiac catheterization procedures in the preceding 12 months.

However, the applicant may submit and the Department may accept other evidence that the staff physicians performing adult therapeutic cardiac catheterizations are appropriately trained.

(x) An applicant proposing to offer a pediatric cardiac catheterization service shall demonstrate an appropriately trained physician(s) shall be on the active hospital staff to perform diagnostic or therapeutic, as applicable, pediatric cardiac catheterizations. For purposes of evaluating this subsection, the Department shall consider it prima facie evidence of appropriate training if the staff physician(s) is:

(A) board certified or board eligible in pediatric cardiology by the American Board of Pediatrics;

(B) credentialed by the hospital to perform diagnostic or therapeutic, as applicable, pediatric cardiac catheterizations; and

(C) trained consistently with the recommendations of the American College of Cardiology.

However, the applicant may submit and the Department may accept other evidence that the staff physician(s) performing pediatric cardiac catheterizations is appropriately trained.

(xi) A cardiac catheterization service shall be directed by an appropriately trained physician. For purposes of evaluating this subsection, the Department shall consider it prima facie evidence of appropriate training and experience of the cardiac catheterization service director if the physician is board certified in cardiology, cardiovascular radiology or cardiology, adult or pediatric, as applicable. The director of an adult cardiac catheterization service shall have performed at least 200 catheterizations per year during each of the 5 preceding years. However, the applicant may submit and the Department may accept other evidence that the cardiac catheterization service director is appropriately trained.

(xii) An approved cardiac catheterization service shall be operated consistently with the recommendations of the American College of Cardiology.

(xiii) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(d) Compliance with the following terms of approval:

(i) Equipment that is replaced shall be removed from the cardiac catheterization service.

(ii) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(A) Not deny cardiac catheterization services to any individual based on ability to pay or source of payment;

(B) Provide cardiac catheterization services to all individuals based on the clinical indications of need for the service; and

(C) Maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(iii) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to, annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payor sources and other data requested by the Department or its designee and approved by the Commission. The applicant shall provide the required data on a separate basis for each separate and distinct site or unit as required by the Department, in a format established by the Department and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(iv) The applicant shall participate in a quality improvement data registry administered by the Department or its designee. The Department or its designee shall require that the applicant submit a summary report as required by the Department. The applicant shall provide the required data in a format established by the Department or its designee. The applicant shall be liable for the cost of data submission and on-site reviews in order for the Department to verify and monitor volumes and assure quality. An applicant shall become a member of the data registry upon initiation of the service and continue to participate annually thereafter.

(v) The applicant shall provide the Department with a notice stating the date on which the first approved service is performed and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(vi) The applicant shall accept referrals for cardiac catheterization services from all appropriately licensed health care practitioners.

(2) The agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

SECTION 13. PROJECT DELIVERY REQUIREMENTS – ADDITIONAL TERMS OF APPROVAL FOR APPLICANTS APPROVED UNDER SECTION 5

Sec. 13. (1) An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(a) Shall immediately report to the Department any changes in the interventional cardiologists who perform the primary PCI procedures.

(b) Compliance with requirements of the standards set forth in Section 5(1).

(2) The applicant shall have performed a minimum of 48 primary PCI procedures at the facility in the preceding 12 months and annually thereafter.

(3) The applicant shall participate in a data registry, administered by the Department or its designee. The Department or its designee shall require that the applicant submit data on all consecutive cases of primary PCI as is necessary to comprehensively assess and provide comparative analyses of case selection, processes and outcome of care, and trend in efficiency. The applicant shall provide the required data in a format established by the Department or its designee. The applicant shall be liable for the cost of data submission and on-site reviews in order for the Department to verify and monitor volumes and assure quality.

Section 14. Documentation of projections

Sec. 14. An applicant required to project volumes of service under sections 4, 5, 6, and 7 shall specify how the volume projections were developed. This specification of the projections shall include a description of the data source(s) used, assessments of the accuracy of these data, and the statistical method used to make the projections. Based on this documentation, the Department shall determine if the projections are reasonable.

Section 15. Effect on prior CON Review Standards; comparative reviews

Sec. 15. (1) These CON Review Standards supercede and replace the CON Review Standards for Cardiac Catheterization Services approved by the CON Commission on March 9, 2004 and effective on June 4, 2004.

(2) Projects reviewed under these standards shall not be subject to comparative review.

APPENDIX A

CON REVIEW STANDARDS
FORCARDIAC CATHETERIZATION SERVICES

Rural Michigan counties are as follows:

Alcona	Hillsdale	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Mason	Schoolcraft
Emmet	Montcalm	Tuscola
Gladwin	Montmorency	
Gogebic	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Gratiot	Mecosta
Alpena	Houghton	Menominee
Benzie	Isabella	Midland
Branch	Kalkaska	Missaukee
Chippewa	Keweenaw	St. Joseph
Delta	Leelanau	Shiawassee
Dickinson	Lenawee	Wexford
Grand Traverse	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Ionia	Newaygo
Bay	Jackson	Oakland
Berrien	Kalamazoo	Ottawa
Calhoun	Kent	Saginaw
Cass	Lapeer	St. Clair
Clinton	Livingston	Van Buren
Eaton	Macomb	Washtenaw
Genesee	Monroe	Wayne
Ingham	Muskegon	

Source:
65 F.R., p. 82238 (December 27, 2000)
Statistical Policy Office
Office of Information and Regulatory Affairs
United States Office of Management and Budget

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

MCL 24.256(1) states in part:

"Sec. 56. (1) The State Office of Administrative Hearings and Rules shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the State Office of Administrative Hearings and Rules, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The State Office of Administrative Hearings and Rules may correct in the publications obvious errors in rules when requested by the promulgating agency to do so…"

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

MEMORANDUM

DATE: April 11, 2008

TO: Norene Lind, Regulatory Affairs Manager
State Office of Administrative Hearings and Rules

FROM: Jeannine Benedict, Administrative Rules Specialist
MDLEG, Office of Policy and Legislative Affairs

SUBJECT: Request for correction of obvious error: MIOSHA Construction Safety Part 32 'Aerial Work Platforms' Rules R 408.43210, and R 408.43207(7) pursuant to Administrative Procedures Act, Section 56(1), MCL 24.256 (1).

The MIOSHA Standards Section, as a promulgating agency, is writing to request that the State Office of Administrative Hearings and Rules exercise its discretion on two obvious errors in the MIOSHA Rules, pursuant to the Administrative Procedures Act, Section 56(1), MCL 24.256 (1).

One error is in section R 408.43210, which was rescinded during rulemaking for SOAHR # 2006-082, but the final non-strike version did not show the deleted language, so it is still shown in the administrative rules that were effective on March 20, 2008. This correction can be verified in the Archived Rule Revisions for 2006 on the SOAHR website, where the strike bold version of the corrections clearly shows the rescinded rule language for this rule. The language needs to be corrected to read as follows:

R 408.43210 Rescinded.

The second error is in section R 408.43207(7), and was effective on July 9, 1992. The Sample Permit was shown as a table in 1992 AACS, page 984. All of the other language is the same just displayed as a sample permit. The language needs to be corrected to read as follows:

(7) A sample permit is set forth as follows:

If you have any questions about this transmittal, you may contact me at 517.335.2626.

cc: Marsha Parrott-Boyle, MIOSHA Standards Program Manager

OPINIONS OF THE ATTORNEY GENERAL

MCL 14.32 states in part:

"It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer"

MCL 24.208 states in part:

"Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(j) Attorney general opinions. "

OPINIONS OF THE ATTORNEY GENERAL

STATE OF MICHIGAN

MIKE COX, ATTORNEY GENERAL

GENERAL PROPERTY TAX ACT: Exemption from state real estate transfer taxes

STATE REAL ESTATE TRANSFER TAX ACT:

REAL PROPERTY:

TAXATION:

An exemption from the requirement imposed by the State Real Estate Transfer Tax Act, MCL 207.521 *et seq*, to pay state real estate transfer taxes upon the transfer or sale of real property may be claimed under MCL 207.526(t) if, on the date a parcel occupied as a principal residence is transferred, its state equalized value is less than or equal to its state equalized value on the date the owner purchased or acquired the parcel *and* the property is sold for not more than its true cash value at the time of sale.

Opinion No. 7214 April 3, 2008

Honorable Martin J. Griffin
State Representative
The Capitol
Lansing, MI

You have requested my opinion concerning the requirements for claiming an exemption from the state real estate transfer tax when owners transfer their interests in their principal residences.

The State Real Estate Transfer Tax Act (Act), 1993 PA 330, MCL 207.521 *et seq*, imposes a tax upon each instrument of conveyance transferring an interest in real property. MCL 207.523 The burden of the tax is placed upon the seller. MCL 207.523(2). The tax is due at the time the deed, easement,

assignment, or other instrument of conveyance is offered to the Register of Deeds for recording. MCL 207.533.[1]

Certain conveyances, however, are exempt from this tax.[2] MCL 207.526. As you note in your letter, section 6(t) of the Act, MCL 207.526(t),[1] provides an exemption for qualifying principal residences:

> The following written instruments and transfers of property are exempt from the tax imposed by this act:
>
> * * *
>
> (t) A written instrument conveying an interest in property for which an exemption is claimed under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc [this applies to a "principal residence"], if the state equalized valuation of that property is equal to or lesser than the state equalized valuation on the date of purchase or on the date of acquisition by the seller or transferor for that same interest in property.

Section 6(t) also requires that a penalty be assessed if certain circumstances relating to the property's "true cash value" are present:

> If after an exemption is claimed under this subsection, the sale or transfer of property is found by the treasurer to be at a value other than the true cash value, then a penalty equal to 20% of the tax shall be assessed in addition to the tax due under this act to the seller or transferor. [MCL 207.526(t).]

Your letter advises that the struggling housing market has resulted in increased reliance on this provision and created the potential for its inconsistent application by county registers of deeds. You therefore ask for guidance concerning the correct application of this exemption.

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[1] The tax is $3.75 for each $500.00 or fraction of $500.00 of the total value of the interests in real property being transferred. MCL 207.525. (This equates to approximately ¾ of 1% of the value of the property.)

[2] For questions regarding whether a particular conveyance is exempt from this tax and for guidance regarding other frequently asked questions, see the Department of Treasury's website at http://www.michigan.gov/taxes/0,1607,7-238-43868---F,00.html.

Analysis begins by examining the section of the General Property Tax Act (GPTA), MCL 211.1 *et seq*, referred to in MCL 207.526(t) above. Section 7cc of the GPTA provides an exemption from local school operating tax for principal residences:

> A principal residence is exempt from the tax levied by a local school district for operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. [MCL 211.7cc(1).]

This exemption, added to the GPTA by 1994 PA 237, and the state real estate transfer tax first imposed by 1993 PA 330 were enacted along with other laws to implement the significant shift in tax burdens for the funding of public education that was approved by the electorate as Proposal A in 1993.[2]

A "principal residence"[3] is defined by section 7dd(c) of the GPTA, MCL 211.7dd(c):

> "Principal residence" means the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

Each parcel of real property, including land occupied as a principal residence, is assigned four different values for each tax year (calendar year)[1]: (1) a true cash value; (2) an assessed value; (3) a state equalized value; and (4) a taxable value. Throughout this opinion, these terms may be referred to by their corresponding acronyms TCV (true cash value), AV (assessed value), SEV (state equalized value), and TV (taxable value).

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[1] No similar exemption is found in the County Real Estate Transfer Tax Act, 1966 PA 134, MCL 207.501 *et seq*.

[2] Proposal A amended Const 1963, art 9, § 11, which describes the source of funding for the state school aid fund, distributions from that fund, and the state guarantee with respect to providing funding to local school districts for school operating purposes.

[3] Initially the term utilized was "homestead." Since the enactment of 2003 PA 140 (effective January 1, 2004), the term "principal residence" has been utilized.

"True cash value" is defined in the GPTA:

> As used in this act, "true cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. [MCL 211.27(1).]

The local assessor annually reaches a tentative determination of the true cash value and assessed value as well as the taxable value for a parcel for the current calendar year, considering its status and condition as of the 31st day of December of the immediately preceding year known as the "tax day." MCL 211.2 and 211.29. These tentative value determinations are to be made by the assessor and entered on the assessment roll not later than the first Monday in March. MCL 211.24. Each parcel's assessed value is set at 50% of its "true cash value." MCL 211.27a. The taxable value is then established in accordance with MCL 211.27a, which allows for various adjustments under specified circumstances.

At least ten days prior to the meeting of the local board of review, the assessor is required to give notice to each owner or person or persons listed on the assessment roll of the assessor's tentative determinations in accordance with MCL 211.24c(1) and (2), which states:

> (1) The assessor shall give to each owner or person or persons listed on the assessment roll of the property a notice by first-class mail of an increase in the tentative state equalized valuation or the tentative taxable value for the year. The notice shall specify each parcel of property, the tentative taxable value for the current year, and the taxable value for the immediately preceding year. The notice shall also specify the time and place of the meeting of the board of review. The notice shall also specify the difference between the property's tentative taxable value in the current year and the property's taxable value in the immediately preceding year.
>
> (2) The notice shall include, in addition to the information required by subsection (1), all of the following:

[1] For real property and personal property subject to tax under the GPTA, the tax year is the calendar year. See OAG, 1965-1966, No 4463, p 207 (February 21, 1966). See also 1 OAG 1955, No 2074, p 257 (May 11, 1955).

(a) The state equalized valuation for the immediately preceding year.

(b) The tentative state equalized valuation for the current year.

(c) The net change between the tentative state equalized valuation for the current year and the state equalized valuation for the immediately preceding year.

(d) The classification of the property as defined by section 34c.

(e) The inflation rate for the immediately preceding year as defined in section 34d.

(f) A statement provided by the state tax commission explaining the relationship between state equalized valuation and taxable value. If the assessor believes that a transfer of ownership has occurred in the immediately preceding year, the statement shall state that the ownership was transferred and that the taxable value of that property is the same as the state equalized valuation of that property.

A person objecting to these tentative values may appeal to the local board of review. MCL 211.28. The board, by law, is required to meet in March. MCL 211.29. If aggrieved by the board's determination, an appeal may be taken to the Michigan Tax Tribunal. MCL 211.30(4). At its March meeting, the board reviews the tentative values, hears any appeals, and after making any changes or corrections it finds appropriate, approves the values to be set forth on the assessment roll. MCL 211.30.

The values approved by the board are subject to equalization at the county and state levels to assure that, in the aggregate, property is uniformly assessed at 50% of true cash value by all taxing authorities. See Const 1963, art 9, § 3 and MCL 211.34. Generally, equalization at both levels seeks to achieve uniformity of property tax assessment among the cities or townships within a county, in the case of intracounty equalization, and among all counties within the State, in the case of state equalization. *Washtenaw County v State Tax Comm,* 422 Mich 346, 351 n 1; 373 NW2d 697 (1985). This process concludes in May (absent any pending appeal), MCL 211.34, and establishes the SEV, TV, AV, and TCV that apply throughout that entire calendar year.

On the date a parcel occupied as a principal residence is transferred, it has an established SEV or one that is in the process of being established as discussed above. If the SEV for the property at the time of transfer by the owner is less than or equal to that property's SEV on the date the owner purchased or acquired the property, the seller may claim an exemption under MCL 207.526(t), provided that the property is sold for not more than its true cash value.

Some hypothetical examples will help to illustrate how the exemption is to be applied under commonly arising factual scenarios. Each will assume that a husband and wife purchased or acquired real property in 2006 and conveyed the parcel to another person in 2008. It is further assumed that the husband and wife occupied the property as their principal residence, exempted from school operating millage under section 7cc of the General Property Tax Act, MCL 211.7cc.

EXAMPLE 1:

SEV when acquired in 2006 = $74,000.00.

SEV when transferred in 2008 = $72,000.00.

TCV in 2008 = $144,000.00.

Transfer or sale price in 2008 = $140,000.00.

OUTCOME: This transfer qualifies for exemption from the state real estate transfer tax because the SEV for 2008, the year of sale, is less than the SEV for 2006, the year of acquisition, *and* the sale price does not exceed the true cash value.

EXAMPLE 2:

SEV when acquired in 2006 = $74,000.00.

SEV when transferred in 2008 = $72,000.00.

TCV in 2008 = $144,000.00.

Transfer or sale price in 2008 = $148,000.00.

OUTCOME: This transfer is not exempt under MCL 207.526(t) because the sale price exceeds the true cash value for 2008, the year of sale.

EXAMPLE 3:

SEV when acquired in 2006 = $74,000.

SEV when sold in 2008 = $75,000.

OUTCOME: This transfer, regardless of the sale price, is not exempt under MCL 207.526(t) because the SEV for 2008, the year of sale, exceeds the SEV for 2006, the year of acquisition.

In summary, to determine whether a transfer of an interest in real property is eligible for the exemption under MCL 207.526(t), the following must be established:

(a) The property must have been occupied as a principal residence, classified as exempt from taxes for school operating purposes under MCL 211.7cc;

(b) The property's SEV for the calendar year in which the transfer is made must be less than or equal to the property's SEV for the calendar year in which the transferor acquired the property; and

(c) The property cannot be transferred for a consideration exceeding its true cash value for the year of transfer.

You have also asked about the applicability of the penalty provision of MCL 207.526(t), which states:

> If after an exemption is claimed under this subsection, the sale or transfer of property is found by the treasurer to be at *a value other than the true cash value*, then a penalty equal to 20% of the tax shall be assessed in addition to the tax due under this act to the seller or transferor. [Emphasis added.]

This provision has been interpreted by the Michigan Department of Treasury as calling for an assessment of tax and the imposition of the prescribed penalty only if *the sale price is in excess of the*

true cash value.[1] In its February 1998, publication entitled STATE REAL ESTATE TRANSFER TAX QUESTIONS & ANSWERS, the Department of Treasury explains:

> **Homestead Property** [2]
>
> [A] transfer of homestead property for which a homestead exemption is claimed under the School Code of 1976 or the State Education Tax Act is exempt under MCL 207.526(t) of the SRETT [State Real Estate Transfer Tax] Act only if both of the following conditions are satisfied:
>
> a. The sale price is *not in excess of the true cash value of the property* assigned to the property by the local assessor.
>
> b. The current SEV is equal to or less than the SEV for the property on the date the transferor acquired the property. [Emphasis added; Official State of Michigan Department of Treasury Michigan Tax Guide, pp 375, 379 (Thomson-West 2006).]

This interpretation best effectuates the legislative intent in accordance with the governing rules of statutory construction.[3] The plain language of the exemption evidences a clear legislative purpose to afford tax relief to persons selling their homes when the market or true cash value of their homes, as evidenced by a comparison of the SEV at the time of acquisition and the time of sale, has fallen. Given that evident purpose, an intent cannot logically be ascribed to the Legislature to penalize seller-homeowners when the price they secure in selling their homes is less than or equal to the property's diminished true cash value. Only where an exemption is claimed *and* the consideration received by the

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[1] This interpretation is consistent with the rule of construction that recognizes language in a statute "does not stand alone, and thus it cannot be read in a vacuum." *Sweatt v Dep't of Corrections*, 468 Mich 172, 179; 661 NW2d 201 (2003). Statutory text must be read in context with the entire act and "'assigned such meanings as are in harmony with the whole of the statute, construed in the light of history and common sense.'" *Id.*, quoting *Arrowhead Dev Co v Livingston County Rd Comm*, 413 Mich 505, 516; 322 NW2d 702 (1982).

[2] As indicated in n 5 earlier, as a result of amendments, the "homestead" exemption is now a "principal residence" exemption, and the exemption is now found at section 7cc of the GPTA, MCL 211.7cc, rather than in the School Code and State Education Tax Act.

[3] See, e.g., *Halloran v Bhan*, 470 Mich 572, 576-578; 683 NW2d 129 (2004) (the courts must discern and give effect to the Legislature's intent as expressed in the statutory language).

seller exceeds true cash value does the penalty provision call for assessment of the tax along with a penalty.

Your question also raises timing issues that warrant consideration. Because true cash value, taxable value, assessed value, and state equalized value represent tentative values from January 1 of a given tax year until finalized by the local board of review in March, and equalization is concluded in May, the question arises how parties may proceed with confidence in (a) determining whether to assert eligibility for the exemption and (b) proceeding with closing on the property sale or transfer before the values become final.

In the absence of any court cases or interpretive guidance provided by the Michigan Department of Treasury, but recognizing the need for uniformity in the application of MCL 207.526(t) in the interim, the most prudent course to follow is for the parties to utilize the tentative values set forth in the assessment roll figures until the time the values become final. The tentative values are available not later than the first Monday in March, but the assessors may have the tentative values at an earlier date.[1] If the transfer is effectuated before the tentative values are entered on the assessment roll or otherwise available, the values from the preceding year should be utilized. If the seller does not claim an exemption and later determines that the finalized SEV and true cash values would justify a claim, a refund may be sought at that time from the Michigan Department of Treasury.

[1] Any questions regarding the tentative or final values determined for a particular parcel may be addressed to the local assessor's office having jurisdiction over the parcel. Assessors often will be able to advise what the tentative SEV is for a principal residence very early in the calendar year.

In that regard, it should be noted that the State Real Estate Transfer Tax Act is administered under the Revenue Act, MCL 205.1 *et seq.* MCL 207.536. The Revenue Act governs administration of the several public acts imposing state taxes, including the state real estate transfer tax. Thus, claims of refund are to be made under the Revenue Act, consistent with that act's deadlines for filing refund claims.

It is my opinion, therefore, that an exemption from the requirement imposed by the State Real Estate Transfer Tax Act, MCL 207.521 *et seq*, to pay state real estate transfer taxes upon the transfer or sale of real property may be claimed under MCL 207.526(t) if, on the date a parcel occupied as a principal residence is transferred, its state equalized value is less than or equal to its state equalized value on the date the owner purchased or acquired the parcel *and* the property is sold for not more than its true cash value at the time of sale.

MIKE COX
Attorney General

ENROLLED SENATE AND HOUSE BILLS SIGNED INTO LAW OR VETOED (2008 SESSION)

Mich. Const. Art. IV, §33 provides: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated."

Mich. Const. Art. IV, §27, further provides: "No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."

MCL 24.208 states in part:

"Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year."

ENROLLED SENATE AND HOUSE BILLS SIGNED INTO LAW OR VETOED (2008 SESSION)

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		730	Yes	1/11	1/11	1/11/08	Education; other; references to "handicapped person" in school code; revise to "student with a disability", allow for transfer of public school academy assets and pupils to another public school, and revise effective date for school district consolidations. **(Sen. J. Gleason)**
2		545	Yes	1/16	1/16	1/16/08	Environmental protection; water pollution; storm water permits; provide waiver of fees for certain municipalities. **(Sen. M. Jansen)**
3	5123		Yes	2/7	2/7	2/7/08	Economic development; commercial redevelopment; obsolete requirement; modify. **(Rep. S. Bieda)**
4	5101		Yes	2/7	2/7	2/7/08	Economic development; neighborhood enterprise zones; eligibility; expand to include new facilities. **(Rep. B. Farrah)**
5		111	Yes	2/7	2/7	2/7/08	Mobile homes; other; penalties for park owners who fail to remit assessment tax; provide for. **(Sen. R. Jelinek)**

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto
# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
6		577	Yes	2/12	2/12	8/10/08	Construction; housing; certain requirements for residential owner-builders to comply with prior to sale of structure; clarify. **(Sen. J. Gilbert)**
7	4505		Yes	2/15	2/15	2/15/08	Traffic control; driver license; issuance of driver license to individual not lawfully in the United States; prohibit, and revise procedures for issuance of license. **(Rep. C. Ward)**
8		092	Yes	2/20	2/20	2/20/08	Environmental protection; permits; liquid industrial waste; exempt fats used to produce fuels, and make technical revisions. **(Sen. R. Basham)**
9		123	Yes	2/29	2/29	2/29/08	Businesses; nonprofit corporations; use of electronic communications; allow for nonprofit corporations. **(Sen. A. Sanborn)**
10		565	Yes	2/29	2/29	6/1/08	Crimes; larceny; shipping containers; include in crime of breaking and entering. **(Sen. J. Gilbert)**
11	4684		Yes	2/29	2/29	2/29/08	Liquor; other; serving alcohol to an individual who is intoxicated; clarify. **(Rep. F. Accavitti)**
12	5032		Yes	2/29	2/29	2/29/08	Land use; zoning and growth management; zoning enabling act; make corrective and technical revisions. **(Rep. B. Byrum)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
13	5034		Yes	2/29	2/29	2/29/08 #	Agriculture; fertilizer; "agricultural use"; define. **(Rep. J. Sheltrown)**
14	5035		Yes	2/29	2/29	2/29/08	Agriculture; fertilizer; approval for ordinance regarding use of agricultural fertilizer; require by Michigan commission of agriculture. **(Rep. J. Mayes)**
15		097	Yes	2/29	2/29	6/1/08	Children; child care; requirement for licensees and registrants to notify parents of complaints of rule violations and investigations; establish. **(Sen. B. Hardiman)**
16		155	Yes	2/29	2/29	6/1/08 #	Criminal procedure; sentencing guidelines; crime of false report initiating special investigation; enact. **(Sen. C. Brown)**
17		630	Yes	2/29	2/29	2/29/08	Highways; name; certain portion of M-62; designate as the "Veteran's Memorial Highway". **(Sen. R. Jelinek)**
18		682	Yes	2/29	2/29	2/29/08	Agriculture; pesticides; distributors of agricultural pesticides; require to be licensed, and require out-of-state pesticide dealers to maintain a registered office. **(Sen. M. McManus)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
19	5021		Yes	3/6	3/7	3/7/08	Vehicles; equipment; certain visual displays for use in motor vehicles; revise requirements. **(Rep. K. Angerer)**
20	4650		Yes	3/6	3/7	3/7/08	Civil procedure; other; uniform foreign-country money judgments recognition act; create. **(Rep. P. Condino)**
21	5384		Yes	3/6	3/7	3/7/08	Energy; other; energy employment act; revise. **(Rep. M. Nofs)**
22	4220		Yes	3/12	3/12	3/12/08	Public employees and officers; ethics; school board member volunteer service in school district; allow under certain conditions. **(Rep. J. Espinoza)**
23	5535		Yes	3/13	3/13	3/13/08	Traffic control; other; enhanced driver license and enhanced official state personal identification card act; enact. **(Rep. S. Tobocman)**
24	5536		Yes	3/13	3/13	3/13/08 #	Criminal procedure; sentencing guidelines; sentencing guideline for crime of fraudulent certification or statement in applying for enhanced driver license or enhanced official state identification card; establish. **(Rep. E. Clemente)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
25	5582		Yes	3/13	3/13	5/12/08 #	Aeronautics; other; aviation fuel used for certain purposes; exempt from taxation. **(Rep. S. Bieda)**
26	5583		Yes	3/13	3/13	5/12/08 #	Aeronautics; other; certain aviation fuel; exempt from motor fuel tax. **(Rep. T. Schuitmaker)**
27		530	Yes	3/13	3/13	3/13/08	Recreation; outdoor activities; noise emission from snowmobiles; provide standard. **(Sen. J. Allen)**
28		750	Yes	3/13	3/13	3/13/08	Veterans; employment; employment preference for honorably discharged veterans; modify residency requirement. **(Sen. R. Basham)**
29		1061	Yes	3/13	3/13	3/13/08	Insurance; other; captive insurance companies; regulate. **(Sen. A. Sanborn)**
30		1062	Yes	3/13	3/13	3/13/08 #	Business tax; other; taxation of captive insurance companies; exclude. **(Sen. A. Sanborn)**
31		654	Yes	3/13	3/13	3/13/08 #	State; identification cards; class 2 identification card; provide for. **(Sen. A. Sanborn)**
32		966	Yes	3/13	3/13	3/13/08	State; identification cards; personal identification cards; revise requirements for applications. **(Sen. C. Brown)**
33		206	Yes	3/13	3/13	9/1/08	Land use; planning; planning law consolidation; provide for. **(Sen. P. Birkholz)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
34		523	Yes	3/13	3/13	3/13/08	Property; conveyances; transfer of certain state owned property in Lapeer county; provide for. **(Sen. J. Gilbert)**
35		1076	Yes	3/13	3/14	3/14/08	Economic development; downtown development authorities; issuance of qualified refunding obligations; revise. **(Sen. A. Cropsey)**
36		712	Yes	3/13	3/17	3/17/08 #	Traffic control; driver license; amendments regarding revised uniform anatomical gift act; provide for in vehicle code. **(Sen. H. Clarke)**
37		713	Yes	3/13	3/17	3/17/08 #	Criminal procedure; sentencing guidelines; sentencing guidelines for certain violations of the revised uniform anatomical gift act; enact. **(Sen. J. Allen)**
38		714	Yes	3/13	3/17	3/17/08 #	Health; anatomical gifts; amendments regarding revised uniform anatomical gift act; provide for in medical examiner law. **(Sen. R. Kahn)**
39	4940		Yes	3/13	3/17	5/1/08 #	Health; anatomical gifts; revised uniform anatomical gift law; create. **(Rep. P. Condino)**
40	4941		Yes	3/13	3/17	3/17/08 #	State; identification cards; amendments regarding revised uniform anatomical gift law; provide for in personal identification card law. **(Rep. K. Angerer)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
41	4945		Yes	3/13	3/17	3/17/08 #	Health; anatomical gifts; amendments regarding revised uniform anatomical gift law; provide for in estates and protected individuals code. **(Rep. B. Calley)**
42	5184		Yes	3/20	3/20	3/20/08	Property; conveyances; certain property previously conveyed by the state to the city of Lansing; receive from the city of Lansing and reconvey with altered usage restrictions. **(Rep. J. Bauer)**
43		082	Yes	3/27	3/27	7/1/08	Vehicles; equipment; use of child safety restraint system or booster seat for certain children; require. **(Sen. M. McManus)**
44		364	Yes	3/27	3/27	3/27/08	Economic development; commercial redevelopment; corridor improvement authority act; modify. **(Sen. G. Jacobs)**
45	4763		Yes	3/27	3/27	3/27/08	Health; poisons; painting of old houses by volunteer neighborhood groups; exempt from lead-based paint activity certification requirement of public health code. **(Rep. J. Mayes)**
46		273	Yes	3/27	3/27	3/27/08	Children; protection; procedure regarding follow-up to report of child abuse or neglect that involves a licensed or registered facility or home; clarify. **(Sen. B. Hardiman)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
47		667	Yes	3/27	3/27	3/27/08	Family law; marriage and divorce; persons authorized to solemnize marriage; allow county clerk in a county other than county in which clerk serves. **(Sen. C. Brown)**
48		815	Yes	3/27	3/27	1/1/08	Communications; telecommunications; ability of CMRS supplier or reseller to collect service charge; clarify. **(Sen. B. Patterson)**
49		1135	Yes	3/27	3/27	3/27/08	Local government; authorities; zoological authority; permit any county to create. **(Sen. G. Jacobs)**
50	5319		Yes	3/27	3/28	3/28/08	Local government; other; penalties for noncompliance with order; expand to include a blight violation under certain circumstances. **(Rep. S. Jackson)**
51	4868		Yes	3/27	3/28	3/28/08	Cities; home rule; administrative hearings bureau authority to adjudicate blight violations; expand to include right-of-way signage violations and dangerous building violations, and to provide other technical amendments. **(Rep. C. Young)**
52	5665		Yes	3/27	3/28	3/28/08	Communications; telecommunications; sunset; eliminate. **(Rep. F. Accavitti)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
53	5443		Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; waiver for bonds issued to refinance single family homes; provide for. **(Rep. S. Tobocman)**
54		951	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; financing for purchase of certain existing single-family residences; expand to include refinancing. **(Sen. S. Thomas)**
55		950	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; recapture tax fund; establish. **(Sen. H. Clarke)**
56	5446		Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; limitation on aggregate principal amount of notes and bonds; extend issuance date. **(Rep. B. Cook Scott)**
57		948	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; refinancing program; allow housing development authority to offer. **(Sen. T. Hunter)**
58		1133	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; income qualifier for financing loan; increase. **(Sen. R. Richardville)**
59	5287		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; revise compensation provisions. **(Rep. S. Jackson)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
60	5288		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish registration application process. **(Rep. A. Coulouris)**
61	5289		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; require certain notices to OFIS. **(Rep. E. Clemente)**
62	5290		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; clarify authority of OFIS commissioner and revise administrative process concerning revocation or suspension of registration. **(Rep. D. Robertson)**
63	5291		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; revise provisions applicable to investigations by OFIS. **(Rep. D. Booher)**
64		826	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation of and registration of mortgage loan officers; create mortgage industry advisory board. **(Sen. R. Richardville)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
65		827	Yes	4/2	4/3	4/3/08 #	Criminal procedure; sentencing guidelines; violation of mortgage company act or secondary mortgage loan act; reflect reduction of penalty to misdemeanor. **(Sen. R. Richardville)**
66		828	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; revise title and definition section of mortgage broker act. **(Sen. H. Clarke)**
67		829	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish registration renewal process. **(Sen. T. Stamas)**
68		830	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish fees and allocate fee revenue to MBLSLA fund. **(Sen. T. Hunter)**
69		831	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish effect of surrender, revocation, or suspension of registration. **(Sen. D. Olshove)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
70		832	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; prohibit certain activities by loan officers. **(Sen. N. Cassis)**
71		833	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; prohibit acting without registration and establish penalties and remedies for violating act. **(Sen. A. Sanborn)**
72	4596		Yes	4/2	4/3	1/1/09	Financial institutions; mortgage brokers and lenders; fees, application dates, and license or registration expiration dates; revise, and establish MBLSLA fund. **(Rep. S. Jackson)**
73	5861		Yes	4/7	4/7	4/7/08	Transportation; funds; funding for jobs today program; extend sunset. **(Rep. M. Valentine)**

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MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 SESSION)

MCL 24.208 states in part:

"Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules."

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

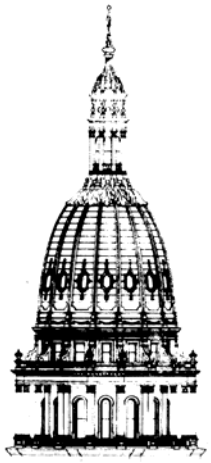
MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
257.1603	*	2	299.9401	*	5	336.1113	*	6
285.637.1	*	4	299.9404	*	5	336.1114	*	6
285.637.2	*	4	299.9405	*	5	336.1122	*	6
285.637.3	*	4	299.9409	*	5	336.1401	*	2
285.637.4	*	4	299.9405	*	5	336.1401a	A	2
285.637.5	*	4	299.9409	*	5	336.1402	*	2
285.637.6	*	4	299.9503	*	5	336.1404	*	2
285.637.7	*	4	299.9408	*	5	336.1405	A	2
285.637.8	*	4	299.9409	*	5	336.1406	A	2
285.637.9	*	4	299.9503	*	5	336.1407	A	2
285.637.10	*	4	299.9519	*	5	336.1420	A	2
285.637.11	*	4	299.9521	*	5	339.16001	*	4
285.637.12	*	4	299.9605	*	5	339.16003	*	4
285.637.13	*	4	299.9607	*	5	339.16021	*	4
285.637.14	*	4	299.9608	*	5	339.16025	*	4
285.637.15	*	4	299.9609	*	5	339.16026	A	4
285.637.17	*	4	299.961	*	5	408.30401	*	6
299.9101	*	5	299.9612	*	5	408.30401a	A	6
299.9102	*	5	299.9613	*	5	408.30404	*	6
299.9104	*	5	299.9615	*	5	408.30405	*	6
299.9105	*	5	299.9623	*	5	408.30408	*	6
299.9203	*	5	299.9629	*	5	408.30410	*	6
299.9204	*	5	299.964	*	5	408.30411	*	6
299.9207	*	5	299.9705	*	5	408.30412	*	6
299.9212	*	5	299.9710	*	5	408.30414	*	6
299.9222	*	5	299.9808	*	5	408.30415a	*	6
299.9224	*	5	299.11001	*	5	408.30417	R	6
299.9225	*	5	299.11002	*	5	408.30418	*	6
299.9226	*	5	299.11003	*	5	408.30421	*	6
299.9227	*	5	299.11004	*	5	408.30427	*	6
299.9228	*	5	299.11005	*	5	408.30429	*	6
299.9231	A	5	299.11009	A	5	408.30432	*	6
299.9304	*	5	322.73	A	5	408.30437	*	6
299.9305	*	5	336.1102	*	6	408.30442	A	6
299.9306	*	5	336.1103	*	6	408.30444	R	6
299.9307	*	5	336.1104	*	6	408.30445	*	6
299.9308	*	5	336.1105	*	6	408.30446	*	6
299.9309	*	5	336.1109	*	6	408.30447	*	6
299.9310	*	5	336.1112	*	6	408.30448	*	6

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
408.30449	*	6	408.30545	*	6	418.101023	*	4
408.30451c	*	6	408.30546	*	6			
408.30457	*	6	408.30547	*	6			
408.30458	*	6	408.30551	*	6			
408.30459	A	6	408.30556	*	6			
408.30475	*	6	408.30557	*	6			
408.30495	*	6	408.30561	*	6			
408.30499	*	6	408.30562	*	6			
408.30503	*	6	408.30564	*	6			
408.30504	*	6	408.30565	*	6			
408.30505	*	6	408.30566	*	6			
408.30506	*	6	408.30568	*	6			
408.30507	*	6	408.30569	*	6			
408.30508	*	6	408.30570	*	6			
408.30509	*	6	408.30571	*	6			
408.30510	*	6	408.30572	*	6			
408.30511	*	6	408.30573	*	6			
408.30512	*	6	408.30574	*	6			
408.30513	*	6	408.30575	*	6			
408.30514	*	6	408.30576	*	6			
408.30516	*	6	408.30577	*	6			
408.30518	*	6	418.10104	*	4			
408.30520	*	6	418.10107	*	4			
408.30521	*	6	418.10504	*	4			
408.30522	*	6	418.10901	*	4			
408.30522a	*	6	418.10902	*	4			
408.30523	*	6	418.10909	*	4			
408.30525	*	6	418.10912	*	4			
408.30526	*	6	418.10913	*	4			
408.30528	*	6	418.10921	*	4			
408.30529	*	6	418.10922	*	4			
408.30530	*	6	418.10923	*	4			
408.30531	*	6	418.10923b	*	4			
408.30534	*	6	418.10925	*	4			
408.30536	*	6	418.101002a	*	4			
408.30539	*	6	418.101003	*	4			
408.30540	*	6	418.101003a	A	4			
408.30543	*	6	418.101005	*	4			
408.30544	*	6	418.101015	*	4			

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



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